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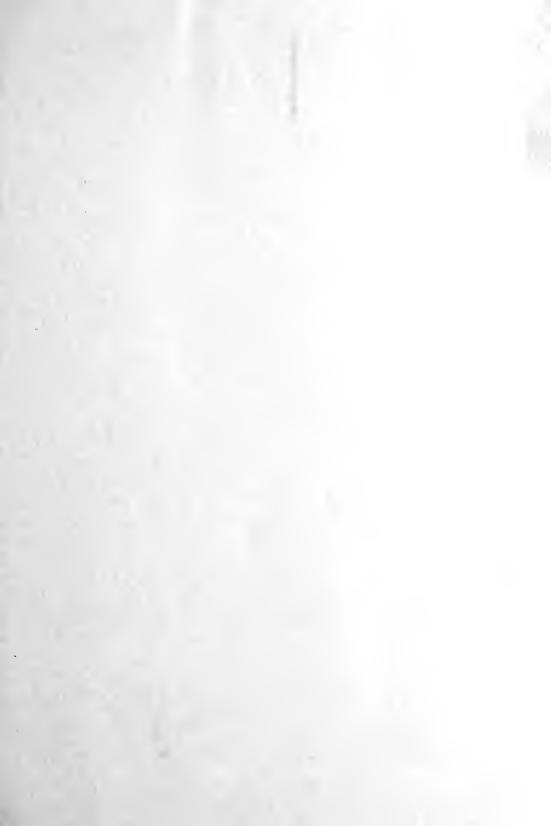
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# CITY AND COUNTY OF SAN FRANCISCO

# 1996 CHARTER

Adopted November 7, 1995 Effective July 1, 1996



# **BOOK PUBLISHING COMPANY**

(This volume includes Charter changes adopted through the Election of November 3, 1998.)

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# TABLE OF CONTENTS

		Page
	Preamble	CH-1
Article I.	Existence and Powers of the City and County	СН-3
Article II.	Legislative Branch	CH-5
Article III.	Executive Branch—Office of Mayor	CH-11
Article IV.	Executive Branch—Boards, Commissions and Departments	СН-17
Article V.	Executive Branch—Arts and Culture	CH-35
Article VI.	Other Elective Officers	СН-39
Article VII.	Judicial Branch	CH-43
Article VIII.	Education and Libraries	CH-45
Article IX.	Financial Provisions	CH-47
Article X.	Personnel Administration	CH-55
Article XI.	Employer-Employee Relations System	CH-61
Article XII.	Employee Retirement and Health Service Systems	СН-63
Article XIII.	Elections	CH-67
Article XIV.	Initiative, Referendum and Recall	CH-71
Article XV.	Ethics	CH-73
Article XVI	Miscellaneous Provisions	CH-77

Article XVII.	Definitions	. СН-93
Article XVIII.	Transition Provisions	СН-95
Appendix A	Employment Provisions	. CH-103
Appendix B	Port Agreements	. СН-265
Appendix C	Ethics Provisions	. СН-273
Appendix D	Building Inspection Provisions	. СН-285
Indov		INDEX CH-

#### **PREAMBLE**

In order to obtain the full benefit of home rule granted by the Constitution of the State of California; to improve the quality of urban life; to encourage the participation of all persons and all sectors in the affairs of the City and County; to enable municipal government to meet the needs of the people effectively and efficiently; to provide for accountability and ethics in public service; to foster social harmony and cohesion; and to assure equality of opportunity for every resident:

We, the people of the City and County of San Francisco, ordain and establish this Charter as the fundamental law of the City and County.

San Francisco Charter Section 1.100

#### ARTICLE I

### EXISTENCE AND POWERS OF THE CITY AND COUNTY

#### SEC. 1.100. NAME AND BOUNDARIES.

The City and County of San Francisco shall continue as a consolidated city and county with such boundaries as are prescribed by law, pursuant to this Charter and the laws of the State of California.

#### SEC. 1.101. RIGHTS AND POWERS.

The City and County of San Francisco may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter. The City and County may make and enforce within its limits all local police, sanitary and other ordinances and regulations. The City and County may appear, sue and defend in all courts in all matters and proceedings.

All rights and powers of a city and county which are not vested in another officer or entity by this Charter shall be exercised by the Board of Supervisors.



Section 2.100

#### ARTICLE II

#### LEGISLATIVE BRANCH

# SEC. 2.100. COMPOSITION AND SALARY. [Effective through December 31, 1999]

The Board of Supervisors shall consist of eleven members elected at large. Members of the Board shall be paid a salary of \$23,924.

## SEC. 2.100. COMPOSITION AND SALARY. [Effective January 1, 2000]

The Board of Supervisors shall consist of eleven members elected by district. Members of the Board shall be paid a salary of \$23,924. (Amended November 1996)

#### SEC. 2.101. TERM OF OFFICE.

Each member of the Board of Supervisors shall be elected at a general election and shall serve a four-year term commencing on the eighth day in January following election and until a successor qualifies. The respective terms of office of the members of the Board of Supervisors in effect on the date this Charter is adopted shall continue.

No person elected or appointed as a Supervisor may serve as such for more than two successive four-year terms. Any person appointed to the office of Supervisor to complete in excess of two years of a four-year term shall be deemed, for the purpose of this section, to have served one full term. No person having served two successive four-year terms may serve as a Supervisor, either by election or appointment, until at least four years after the expiration of the second successive term in office. Any Supervisor who resigns with less than two full years remaining until the expiration of the term shall be deemed, for the purposes of this section, to have served a full four-year term.

#### SEC. 2.102. VACANCIES.

If a vacancy shall exist on the Board of Supervisors because of the death, resignation, permanent disability or the inability of a member to otherwise carry out the responsibilities of the office, the Mayor shall appoint a qualified successor. Should more than 29 months remain in the unexpired term, the appointee shall serve until the next general municipal or statewide election occurring not less than 120 days after the appointment, at which time an election shall be held to fill the unexpired term.

#### SEC. 2.103. MEETINGS.

The Board of Supervisors shall meet at the legislative chambers in City Hall at 12:00 noon on the eighth day in January in each odd-numbered year. Thereafter, regular meetings shall be held on such dates and at such times as shall be fixed by resolution.

The meetings of the Board shall be held in City Hall, provided that, in case of emergency, the Board, by resolution, may designate some other appropriate place as its temporary meeting place.

Notice of any special meeting shall be published at least 24 hours in advance of such special meeting.

CH-5 (12-98)

The Board of Supervisors, by motion, may schedule special meetings of the Board in locations in San Francisco other than City Hall. Notice of special meetings being convened outside of City Hall shall be published and posted in City Hall at least 15 days in advance of such special meetings. Motions to schedule special meetings of the Board in locations in San Francisco other than City Hall shall first be introduced and referred to a committee of the Board for hearing and consideration.

The Board of Supervisors, by motion, may authorize a committee of the Board of Supervisors to schedule a special meeting of the committee of the Board in a location in San Francisco other than City Hall. Notice of special committee meetings being convened outside of City Hall shall be published and posted in City Hall at least 15 days in advance of such special meetings.

## SEC. 2.104. QUORUM.

The presence of a majority of the members of the Board of Supervisors at a regular or special meeting shall constitute a quorum for the transaction of business. In the absence of a quorum, a smaller number of members may compel the attendance of absent members in the manner and under the penalties established by the Board of Supervisors.

The Board of Supervisors shall act by a majority, two-thirds, three-fourths, or other vote of all members of the Board. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

### SEC. 2.105. ORDINANCES AND RESOLUTIONS.

The Board of Supervisors shall meet and transact its business according to rules which it shall adopt.

The Board of Supervisors shall act only by written ordinance or resolution, except that it may act by motion on matters over which the Board of Supervisors has exclusive jurisdiction. All legislative acts shall be by ordinance. An ordinance or resolution may be introduced before the Board of Supervisors by a member of the Board, a committee of the Board or the Mayor, and shall be referred to and reported upon by an appropriate committee of the Board. An ordinance or resolution may be prepared in committee and reported out to the full Board for action, consistent with the public notice laws of the City. Except as otherwise provided in this Charter, passage of an ordinance or a resolution shall require the affirmative vote of a majority of the members of the Board.

An ordinance shall deal with only one subject matter, except that appropriations ordinances may cover appropriations with respect to any number of subjects. The title of each ordinance shall clearly reflect the content of the ordinance.

Except as otherwise provided in Section 2.107, passage of an ordinance shall require two readings at separate meetings of the Board of Supervisors, which shall be held at least five days apart. If an ordinance is amended at its second reading, the ordinance shall require a further reading prior to final passage. Resolutions shall require only one reading and may be adopted upon introduction without reference to committee by unanimous affirmative vote of the members of the Board of Supervisors who are present, but in no event less than a quorum.

All ordinances shall take effect no sooner than 30 days following the date of passage except for ordinances not subject to referendum and those authorizing bonded

(12-98) CH-6

San Francisco Charter Section 2.105

indebtedness and lease financings, which shall take effect immediately. Ordinances granting franchises shall take effect no sooner than 60 days after passage. No ordinance granting a franchise may be passed within 90 days of its introduction.

CH-6.1 (3-97)

San Francisco Charter Section 2.105

Resolutions may take effect immediately upon passage, or at such other time as shall be specified in the resolutions.

#### SEC. 2.106. VETO OVERRIDE.

The Board of Supervisors may enact an ordinance or resolution which has been vetoed by the Mayor pursuant to Section 3.103 if, within 30 days after such veto, not less than two-thirds of the Board of Supervisors shall vote in favor of such measure, except as provided in Section 9.104. If a larger vote is required for the adoption of the measure by provisions of this Charter, such larger vote shall be required to overcome the veto of the Mayor.

#### SEC. 2.107. EMERGENCY ORDINANCES.

An emergency ordinance may be passed in cases of public emergency affecting life, health, property, or for the uninterrupted operation of any City or County department or office required to comply with time limitations as established by law. Emergency ordinances shall require only one reading, and the affirmative vote of two-thirds of the Board of Supervisors shall be required for the passage of an emergency ordinance.

The form and manner of introduction of an emergency ordinance shall be as required for ordinances generally. In addition, an emergency ordinance shall contain:

- 1. A declaration setting forth the existence of the emergency;
- 2. A clear and concise description thereof; and
- 3. An explanation of how the measures in the ordinance will address the emergency.

An emergency ordinance shall be effective upon passage and shall automatically terminate on the 61st day following passage. An emergency ordinance may be reenacted upon the same terms and conditions applicable to its initial enactment. Any appropriation contained in an emergency ordinance shall be deemed to be an amendment to the final appropriations ordinance.

An emergency ordinance may suspend specific sections of this Charter, but may not: levy taxes; grant, renew or extend a franchise; regulate the rate charged by any public utility for its services; set salaries; issue bonds; or buy, sell or lease land.

### SEC. 2.108. PUBLIC'S RIGHT TO KNOW.

The Board of Supervisors shall adopt and maintain a Sunshine Ordinance to liberally provide for the public's access to their government meetings, documents and records.

The Clerk of the Board of Supervisors shall keep a permanent public record of the proceedings of the Board showing all action considered and taken, the text of ordinances and resolutions voted upon and the vote of each member of the Board regarding any matter before the Board. The Clerk of the Board shall cause the text of all ordinances or resolutions passed by the Board to be readily available to the public.

A written calendar of the business scheduled for each meeting of the Board of Supervisors or any standing or special committee comprised of Board members and established by the Board shall be prepared and available to the public before each meeting. Summaries of board and committee calendar items of general public interest, as determined by the Clerk of the Board, and a statement of where and when copies

CH-7 (3-98)

of proposed ordinances and resolutions may be obtained, shall be published commencing at least 36 hours before the commencement time of each regular meeting and at least 18 hours before the commencement time of each special meeting.

Except as otherwise provided in this Charter, or by ordinance, notice of the title or the purport and subject matter of each proposed ordinance which is introduced and referred to committee shall be published within five days after its presentation to the board and a copy of such proposed ordinance shall be kept available for inspection in the office of the Clerk of the Board. Each ordinance required to be included in the municipal code shall be printed promptly after final passage, and copies shall be made available to the public.

All ordinances, after final passage or upon their becoming effective shall be certified by the Clerk of the Board and recorded in a book kept for that purpose, and resolutions adopted shall be certified and recorded in a like manner. Notice that an ordinance has been passed for second reading, that an ordinance has been finally passed, and that a resolution has been adopted, together with a statement of where copies may be obtained, shall be published once within five days of such passage for second reading, final passage, or adoption.

#### SEC. 2.109. RATES, FEES AND SIMILAR CHARGES.

Within 30 days of submission by the Mayor, the Board of Supervisors shall approve by ordinance or reject any rate, fee or similar charge to be imposed by any department, official, board or commission, except those rates, fees and similar charges established by the Port or Airport Commissions, or under the Refuse Collection and Disposal Ordinance of November 8, 1932, as amended.

### SEC. 2.111. ABANDONMENT OF TRANSIT ROUTES.

Any abandonment of a transit route by any department of the City and County shall be reviewed for approval or rejection by the Board of Supervisors in a manner prescribed by ordinance.

#### SEC. 2.112. FIDELITY BONDS.

The Board of Supervisors shall determine which officials of the City and County shall be required to post fidelity bonds and the respective amounts of any such bonds. An annual review of bonding requirements shall be conducted by the Board of Supervisors.

#### SEC. 2.113. LEGISLATIVE INITIATIVE.

The Board of Supervisors, or four or more members, may submit to the voters declarations of policy, and any matter which the Board of Supervisors is empowered to pass.

(3-98) CH-8

Upon approval by the voters, the Board of Supervisors shall within 90 days of such approval take such actions within their powers as shall be necessary to carry such declarations of policy into effect. A special municipal election shall not be called with respect to a declaration of policy.

#### SEC. 2.114. NON-INTERFERENCE IN ADMINISTRATION.

Except for the purpose of inquiry, the Board of Supervisors shall deal with the administrative service for which the City Administrator is responsible solely through such officer, and for administrative or other functions for which elective officials or boards or commissions are responsible solely through the elective official, the board or commission or the chief executive officer of such board or commission concerned, or their designees.

Neither the Board of Supervisors, its committees, nor any of its members, shall have any power or authority, nor shall they dictate, suggest or interfere with respect to any appointment, promotion, compensation, disciplinary action, contract or requisition for purchase or other administrative actions or recommendations of the City Administrator or of department heads under the City Administrator or under the respective boards and commissions. The Board of Supervisors shall deal with administrative matters only in the manner provided by this Charter, and any dictation, suggestion or interference herein prohibited on the part of any Supervisor shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the power of hearing and inquiry as provided in this Charter.

Notwithstanding any other provisions of this section, it shall not constitute prohibited interference for a member of the Board of Supervisors to testify regarding administrative matters other than specific contract and personnel decisions at a public meeting of a City board, commission, task force or other appointive body, or for the Board of Supervisors to adopt legislation regarding administrative matters other than specific contract and personnel decisions.

Violation of this section shall constitute official misconduct.

#### SEC. 2.115. FINANCIAL AUDIT.

The Board of Supervisors shall select a firm or firms of independent accountants to audit and report upon the annual financial statements of the City and County.

# SEC. 2.116. PRESIDENT OF THE BOARD OF SUPERVISORS. [Effective through December 31, 1999]

At its regular meeting on the eighth day of January in odd-numbered years, the position of President of the Board of Supervisors be assumed by the member who received the highest number of votes at the last preceding Supervisorial election. If a vacancy in the office of President of the Board of Supervisors shall occur prior to the end of the term, the Board of Supervisors shall elect one of its members to fill the unexpired portion of the term. The President shall preside at all meetings, appoint all standing and special committees, assign legislation to committees, and have such other powers and duties as may be assigned by the Board of Supervisors.

CH-9 (3-97)

# SEC. 2.116. PRESIDENT OF THE BOARD OF SUPERVISORS. [Effective January 1, 2000]

At its regular meeting on the eighth day of January in odd-numbered years, the Board of Supervisors shall by majority vote elect one of its members as President for a two-year term. If a vacancy in the office of President of the Board of Supervisors shall occur prior to the end of the term, the Board of Supervisors shall by majority vote elect one of its members to fill the unexpired portion of the term. The President shall preside at all meetings, appoint all standing and special committees, assign legislation to committees, and have such other powers and duties as may be assigned by the Board of Supervisors. (Amended November 1996)

#### SEC. 2.117. OFFICES OF THE BOARD OF SUPERVISORS.

Each member of the Board of Supervisors shall have two staff members pursuant to Section 10.104. The Board of Supervisors shall appoint a Clerk of the Board. The Clerk of the Board shall have charge of the office and records of the Board and its committees and its classified staff. The Clerk shall keep a public record of the proceedings of the board as provided by Section 2.108 of this Charter and shall keep properly indexed files of all ordinances and resolutions. The Clerk shall be responsible for the publication, as required by law, of ordinances, resolutions and other matters acted on by the Board for which publication is specified. The Clerk shall have such other duties and responsibilities as the Board of Supervisors may prescribe.

The Board of Supervisors shall appoint and may remove a Budget Analyst and such appointment shall be made solely on the basis of qualifications by education, training and experience for the position to be filled. The Budget Analyst shall be responsible for such duties as the Board of Supervisors shall prescribe.

(3-97) CH-10

San Francisco Charter Section 3.100

#### ARTICLE III

#### EXECUTIVE BRANCH—OFFICE OF MAYOR

### SEC. 3.100. POWERS AND RESPONSIBILITIES.

The Mayor shall be the chief executive officer and the official representative of the City and County, and shall serve full time in that capacity. The Mayor shall devote his or her entire time and attention to the duties of the office, and shall not devote time or attention to any other occupation or business activity. The Mayor shall enforce all laws relating to the City and County, and accept service of process on its behalf.

The Mayor shall have responsibility for:

1. General administration and oversight of all departments and governmental units in the executive branch of the City and County;

2. Coordination of all intergovernmental activities of the City and County;

- 3. Receipt and examination of complaints relating to the administration of the affairs of the City and County, and timely delivery of notice to the complainant of findings and actions taken;
- 4. Assurance that appointees to various governmental positions with the City and County are qualified and are as representative of the communities of interest and diverse population of the City and County as is reasonably practicable, and are representative of both sexes;
- 5. Submission of ordinances and resolutions by the executive branch for consideration by the Board of Supervisors;
- 6. Presentation before the Board of Supervisors of a policies and priorities statement setting forth the Mayor's policies and budget priorities for the City and County for the ensuing fiscal year;
- 7. Introduction before the Board of Supervisors of the annual proposed budget or multi-year budget which shall be initiated and prepared by the Mayor. The Mayor shall seek comments and recommendations on the proposed budget from the various commissions, officers and departments; and
- 8. Preparation of and introduction to the Board of Supervisors of supplemental appropriations. The Mayor shall have the power to:
- 9. Speak and be heard with respect to any matter at any meeting of the Board of Supervisors or any of its committees, and shall have a seat but no vote on all boards and commissions appointed by the Mayor;
- 10. As provided in Section 3.103 of this Charter, veto any ordinance or resolution passed by the Board of Supervisors;
- 11. Subject to the fiscal provisions of this Charter and budgetary approval by the Board of Supervisors, appoint such staff as may be needed to perform the duties and carry out the responsibilities of the Mayor's office, provided that no member of the staff shall receive a salary in excess of seventy percent of that paid the Mayor. For purposes of this provision, staff does not include the City Administrator, department heads or employees of departments placed under his or her direction by Section 3.104. Notwithstanding any other provisions or limitations of this Charter to the contrary, the Mayor may not designate nor may the City and County employ on the Mayor's behalf any person to act as deputy to the Mayor or any similar employment

San Francisco Charter

classification, regardless of title, whose responsibilities include but are not necessarily limited to supervision of the administration of any department for which the City Administrator, an elected official other than the Mayor or an appointed board or commission is assigned responsibility elsewhere in this Charter;

12. Designate a member of the Board of Supervisors to act as Mayor in the

Mayor's absence from the state or during a period of temporary disability;

13. In the case of an emergency threatening the lives, property or welfare of the City and County or its citizens, the Mayor may direct the personnel and resources of any department, command the aid of other persons, and do whatever else the Mayor

may deem necessary to meet the emergency;

In meeting an emergency, the Mayor shall act only with the concurrence of the Board of Supervisors, or a majority of its members immediately available if the emergency causes any member of the Board to be absent. The Mayor shall seek the Board's concurrence as soon as is reasonably possible in both the declaration of an emergency and in the action taken to meet the emergency. Normal notice, posting and agenda requirements of the Board of Supervisors shall not be applicable to the Board's actions pursuant to these provisions;

14. Make an appointment to fill any vacancy in an elective office of the City

and County until a successor shall have been elected;

15. Submit to the voters a declaration of policy or ordinance on any matter on which the Board of Supervisors is empowered to pass;

16. Have and exercise such other powers as are provided by this Charter or

by law for the chief executive officer of a City and County;

17. Unless otherwise specifically provided, make appointments to boards and commissions which shall be effective immediately and remain so, unless rejected by a two-thirds vote of the Board of Supervisors within 30 days following transmittal of Notice of Appointment. The Notice of Appointment shall include the appointee's qualifications to serve and a statement how the appointment represents the communities of interest, neighborhoods and diverse populations of the City and County;

18. Appoint department heads subject to the provisions of this Charter; and

19. Prepare and submit schedule of rates, fees and other similar charges to the Board of Supervisors.

# SEC. 3.101. TERM OF OFFICE.

The Mayor shall serve a four-year term. No person shall serve as mayor for more than two successive terms. A part of a term that exceeds two years shall count as a full term. There shall be no limit on the non-successive terms that a person may serve.

# SEC. 3.102. VACANCIES.

If the Mayor is absent from the state or temporarily disabled without designating an Acting Mayor, the President of the Board of Supervisors shall act as Mayor until such time as the Mayor shall return to office.

If the Office of Mayor should become vacant because of death, resignation, permanent disability or the inability to carry out the responsibilities of the office, the President of the Board of Supervisors shall become Acting Mayor and shall serve until a successor is elected by the Board of Supervisors. Should more than 29 months remain in the unexpired term of the Mayor, the successor elected by the Board of Supervisors shall serve until the next general municipal or statewide election occurring

San Francisco Charter Section 3.102

not less than 120 days after the Board's action, at which time an election shall be held to fill the unexpired term. In case of a disaster in which neither the Mayor nor the President of the Board of Supervisors is able to serve as Mayor, the order of succession shall be as designated by ordinance.

### SEC. 3.103. VETO POWER.

Any ordinance or resolution passed by the Board of Supervisors shall be promptly delivered to the Mayor for consideration. If the Mayor approves the ordinance or resolution, the Mayor shall sign it and it shall become effective as provided in Section 2.105 of this Charter. If the Mayor disapproves the ordinance or resolution, the Mayor shall promptly return it to the Board of Supervisors without the Mayor's signature, accompanied by a statement indicating the reasons for disapproval and any recommendations which the Mayor may have. Any ordinance or resolution so disapproved by the Mayor shall become effective only if, subsequent to its return, it shall be passed by a vote of the Board of Supervisors required by Section 2.106 of this Charter. Any ordinance or resolution shall become effective, with or without the Mayor's signature, unless it is disapproved by the Mayor and returned to the Board of Supervisors not more than ten days after the date the ordinance or resolution was delivered to the Mayor's Office for consideration.

### SEC. 3.104. CITY ADMINISTRATOR.

The Mayor shall appoint or reappoint a City Administrator, subject to confirmation by the Board of Supervisors. The appointee shall have at least ten years' governmental management or finance experience with at least five years at the city, county, or city and county level. The City Administrator shall have a term of office of five years, and may be removed by the Mayor subject to approval by the Board of Supervisors.

The City Administrator shall have responsibility for:

- 1. Administrative services within the executive branch, as assigned by the Mayor or by ordinance;
- 2. Administering policies and procedures regarding bonded or other long-term indebtedness, procurement, contracts and building and occupancy permits, and for assuring that all contracts and permits are issued in a fair and impartial manner and that any inspections involved with the issuance of permits shall be carried out in a like manner;
- 3. Coordinating all capital improvement and construction projects except projects solely under the Airport, Port, Public Utilities and Public Transportation Commissions;
- 4. Preparing and recommending bond measures for consideration by the Mayor and Board of Supervisors; and
- 5. Administering, budgeting and control of publicity and advertising expenditures.

The City Administrator shall have power to:

6. With the concurrence of the Mayor, appoint and remove the directors of the Departments of Administrative Services, Solid Waste, Public Guardian/Administrator, and Public Works, and such other department heads which are placed under his or her direction;

CH-13 (9-96)

- 7. Propose rules governing procurement and contracts to the Board of Supervisors for consideration;
- 8. Award contracts without interference from the Mayor or Board of Supervisors; and
- 9. Coordinate the issuance of bonds and notes for capital improvements, equipment and cash flow borrowings, except for projects solely under the Airport, Port, Public Utilities and Public Transportation Commissions.

In those instances where contract awards are not subject to Board of Supervisors' review, the City Administrator shall award contracts in full compliance with applicable laws and this Charter. The City Administrator's decision in such cases shall be final.

#### SEC. 3.105. CONTROLLER.

The Mayor shall appoint or reappoint a Controller for a ten-year term, subject to confirmation by the Board of Supervisors. The Controller may only be removed by the Mayor for cause, with the concurrence of the Board of Supervisors by a two-thirds vote.

The Controller shall be responsible for the timely accounting, disbursement or other disposition of monies of the City and County in accordance with sound financial practices applicable to municipalities and counties. The Controller shall have the power and duties of a county auditor, except as otherwise provided in this Charter. The Controller shall have authority to audit the accounts and operations of all boards, commissions, officers and departments to evaluate their effectiveness and efficiency. The Controller shall have access to, and authority to, examine all documents, records, books and other property of any board, commission, officer or department.

Should the Controller determine at any time during the fiscal year that the revenues of the General Fund, or any special, sequestered or other fund are insufficient or appear to be insufficient to support the remaining anticipated expenditure from that fund for the fiscal year for any department, function or program, the Controller shall reduce or reserve all or a portion of the expenditure appropriation until such time as the Controller determines that the anticipated revenues for the remainder of that fiscal year are sufficient to support the level of expenditure anticipated for the remainder of the fiscal year. Whenever the Controller makes a reduction or reservation, the Controller shall so inform the Mayor and Board of Supervisors within 24 hours.

The Controller shall exercise general supervision over the accounts of all officers, commissions, boards and employees of the City and County charged in any manner with the receipt, collection or disbursement of City and County funds or other funds, in their capacity as City and County officials or employees. The Controller shall establish accounting records, procedures and internal controls with respect to all financial transactions of the City and County. Such records, procedures and controls shall permit the financial statements of the City and County to be prepared in conformity with generally accepted accounting principles applicable to municipalities and counties.

The Controller shall within 150 days of the end of each fiscal year prepare an annual report of the financial condition of the City and County. Such annual report shall be prepared in accordance with generally accepted accounting principles. The annual report shall contain such information and disclosures as shall be necessary to

(9-96)

San Francisco Charter Section 3.105

present to the public a full and understandable report of all City and County financial activity.

The Controller shall prepare an impartial financial analysis of each City and County ballot measure which shall include the amount of any increase or decrease in the cost of government of the City and County and its effect upon the cost of government. Such analysis shall be issued in sufficient time to permit inclusion in the voters' pamphlet.

The Controller shall issue from time to time such periodic or special financial

reports as may be requested by the Mayor or Board of Supervisors.

All disbursements of funds in the custody of the Treasurer must be authorized by the Controller. No officer or employee shall bind the City and County to expend money unless there is a written contract or other instrument and unless the Controller shall certify that sufficient unencumbered balances are available in the proper fund to meet the payments under such contract or other obligation as these become due.

San Francisco Charter Section 4.100

#### ARTICLE IV

# EXECUTIVE BRANCH—BOARDS, COMMISSIONS AND DEPARTMENTS

#### SEC. 4.100. GENERAL.

In addition to the office of the Mayor, the executive branch of the City and County shall be composed of departments, appointive boards, commissions and other units of government. To the extent law permits, each appointive board, commission, or other unit of government of the City and County established by state or federal law shall be subject to the provisions of this Article and this Charter.

# SEC. 4.101. BOARDS AND COMMISSIONS—COMPOSITION.

Unless otherwise provided in this Charter, the composition of each appointive board, commission or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California or the Board of Supervisors shall:

1. Be broadly representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation of the City and County

and have representation of both sexes; and

2. Consist of electors of the City and County at all times during the term of their respective offices, unless otherwise specifically provided in this Charter; or in the case of boards, commissions or advisory bodies established by legislative act the position is (a) designated by ordinance for a person under legal voting age, or (b) unless specifically exempt from the provisions, or waived by the appointing officer or entity upon a finding that an elector with specific experience, skills or qualifications willing to serve could not be located within the City and County.

Vacancies on appointive boards, commissions or other units of government shall be filled for the balance of the unexpired term in the manner prescribed by this

Charter or ordinance for initial appointments.

Terms of office shall continue as they existed on the effective date of this Charter.

## SEC. 4.102. BOARDS AND COMMISSIONS—POWERS AND DUTIES.

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

- 1. Formulate, evaluate and approve goals, objectives, plans and programs and set policies consistent with the overall objectives of the City and County, as established by the Mayor and the Board of Supervisors through the adoption of City legislation;
- 2. Develop and keep current an Annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals, subject to review and approval by the Mayor and the Board of Supervisors;
- 3. After public hearing, approve applicable departmental budgets or any budget modifications or fund transfers requiring the approval of the Board of Supervisors, subject to the Mayor's final authority to initiate, prepare and submit the annual

proposed budget on behalf of the executive branch and the Board of Supervisors' authority under Section 9.103;

- 4. Recommend to the Mayor for submission to the Board of Supervisors rates, fees and similar charges with respect to appropriate items coming within their respective jurisdictions;
- 5. Unless otherwise specifically provided, submit to the Mayor at least three qualified applicants, and if rejected, to make additional nominations in the same manner, for the position of department head, subject to appointment by the Mayor;
- 6. Remove a department head; the Mayor may recommend removal of a department head to the commission, and it shall be the commission's duty to act on the Mayor's recommendation by removing or retaining the department head within 30 days; failure to act on the Mayor's recommendation shall constitute official misconduct;
- 7. Conduct investigations into any aspect of governmental operations within its jurisdiction through the power of inquiry, and make recommendations to the Mayor or the Board of Supervisors;
- 8. Exercise such other powers and duties as shall be prescribed by the Board of Supervisors; and
- 9. Appoint an executive secretary to manage the affairs and operations of the board or commission.

In furtherance of the discharge of its responsibilities, an appointive board, commission or other unit of government may:

- 10. Hold hearings and take testimony; and
- 11. Retain temporary counsel for specific purposes, subject to the consent of the Mayor and the City Attorney.

Each board or commission, relative to the affairs of its own department, shall deal with administrative matters solely through the department head or his or her designees, and any dictation, suggestion or interference herein prohibited on the part of any member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the board or commission's powers of hearing and inquiry as provided in this Charter.

## SEC. 4.103. BOARDS AND COMMISSIONS—ANNUAL REPORT.

As of the operative date of this Charter and until this requirement is changed by the Board of Supervisors, each board and commission of the City and County shall be required by ordinance to prepare an annual report describing its activities, and shall file such report with the Mayor and the Clerk of the Board of Supervisors. The Annual Report can be included in the Annual Statement of Purpose as provided for in Section 4.102(2).

# SEC. 4.104. BOARDS AND COMMISSIONS—RULES AND REGULATIONS.

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Adopt rules and regulations consistent with this Charter and ordinances of the City and County. No rule or regulation shall be adopted, amended or repealed, without a public hearing. At least ten days' public notice shall be given for such

San Francisco Charter Section 4.104

public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.

2. Hold meetings open to the public and encourage the participation of interested persons. Except for the actions taken at closed sessions, any action taken at other than a public meeting shall be void. Closed sessions may be held in accordance with applicable state statutes and ordinances of the Board of Supervisors.

3. Keep a record of the proceedings of each regular or special meeting. Such record shall indicate how each member voted on each question. These records, except as may be limited by state law or ordinance, shall be available for public inspection.

The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

#### SEC. 4.105. PLANNING COMMISSION.

GENERAL. The Planning Commission shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor. The Mayor shall designate the initial two- and four-year terms of office of the two members replacing the ex officio members under the Charter of 1932.

The Commission shall provide the Mayor with at least three qualified candidates for Director of Planning, selected on the basis of administrative and technical qualifications, with special regard for experience, training and knowledge in the field of city planning.

The Commission may contract with consultants for such services as it may require subject to the fiscal provisions of this Charter.

GENERAL PLAN. The Commission shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan. If the Board of Supervisors fails to act within 90 days of receipt, the proposed General Plan or amendments shall be deemed approved. The General Plan which will initially consist of the Master Plan in effect immediately prior to the effective date of this Charter shall consist of goals, policies and programs for the future physical development of the City and County that take into consideration social, economic and environmental factors. In developing their recommendations, the Commission shall consult with commissions and elected officials, and shall hold public hearings as part of a comprehensive planning process. The Planning Department, in consultation with other departments and the City Administrator, shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan, and periodically prepare implementation programs and schedules which link the General Plan to the allocation of local, state and federal resources. The Planning Department may make such other reports and recommendations to the Mayor, Board of Supervisors and other

offices and governmental units as it may deem necessary to secure understanding and a systematic effectuation of the General Plan.

In preparing any plans, the Planning Department may include plans for systems and areas within the Bay Region which have a planning relationship with the City and County.

REFERRAL OF CERTAIN MATTERS. The following matters shall, prior to passage by the Board of Supervisors, be submitted for written report by the Planning Department regarding conformity with the General Plan:

- 1. Proposed ordinances and resolutions concerning the acquisition or vacation of property by, or a change in the use or title of property owned by, the City and County;
  - 2. Subdivisions of land within the City and County;
- 3. Projects for the construction or improvement of public buildings or structures within the City and County;
- 4. Project plans for public housing, or publicly assisted private housing in the City and County;
  - 5. Redevelopment project plans within the City and County; and
  - 6. Such other matters as may be prescribed by ordinance.

The Commission shall disapprove any proposed action referred to it upon a finding that such action does not conform to the General Plan. Such a finding may be reversed by a vote of two-thirds of the Board of Supervisors.

All such reports and recommendations shall be issued in a manner and within a time period to be determined by ordinance.

PERMITS AND LICENSES. All permits and licenses dependent on, or affected by, the City Planning Code administered by the Planning Department shall be approved by the Commission prior to issuance. The Commission may delegate this approval function to the Planning Department.

ENFORCEMENT. The Planning Department shall administer and enforce the City Planning Code.

ZONING AMENDMENTS. The Commission may propose for consideration by the Board of Supervisors ordinances regulating or controlling the height, area, bulk, set-back, location, use or related aspects of any building, structure or land. An ordinance proposed by the Board of Supervisors concerning zoning shall be reviewed by the Commission. Applications for the reclassification of property may be made by interested parties and must be reviewed by the Commission.

Notwithstanding the Commission's disapproval of a proposal from the Board of Supervisors or the application of interested parties, the Board of Supervisors may adopt the proposed ordinance; however, in the case of any proposal made by the application of interested parties, any such adoption shall be by a vote of not less than two-thirds of the Board of Supervisors.

No application of interested parties proposing the same or substantially the same ordinance as that disapproved by the Commission or by the Board of Supervisors shall be resubmitted to or reconsidered by the Commission within a period of one year from the effective date of final action upon the earlier application.

ZONING ADMINISTRATOR. The director of planning shall appoint a Zoning Administrator from a list of qualified applicants provided pursuant to the Civil Service provisions of the Charter. The Zoning Administrator shall be responsible for the determination of all zoning variances. The administrator shall have the power to grant

San Francisco Charter

only those variances that are consistent with the general purpose and the intent of the zoning ordinance, and in accordance with the general and specific rules of the zoning ordinance, subject to such conditions and safeguards as the Zoning Administrator may impose. The power to grant variances shall be applied only when the plain and literal interpretation and enforcement of the zoning ordinance would result in practical difficulties, unnecessary hardships or where the results would be inconsistent with the general purpose of the zoning ordinance. Decisions of the Zoning Administrator regarding zoning variances may be appealed to the Board of Appeals.

Before any such variance may be granted, there shall appear, and the Zoning Administrator shall specify in his or her findings, the facts in each case which shall establish:

- (a) That there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same district or zone;
- (b) That owing to such exceptional or extraordinary circumstances the literal enforcement of the zoning ordinance would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
- (c) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, possessed by other property in the same zone and vicinity;
- (d) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located; and
- (e) That the granting of such variance will be in harmony with the general purpose and intent of the zoning ordinance and will not adversely affect the general plan.

The determination of the Zoning Administrator shall be final except that appeals therefrom may be taken, as hereinafter provided, to the Board of Appeals, exclusively and notwithstanding any other provisions of this Charter, by any person aggrieved or by any office, agency, or department of the City and County. An appeal from a determination of the Zoning Administrator shall be filed with the Board of Appeals within ten days from the date of such determination. Upon making a ruling or determination upon any matter under his or her jurisdiction, the Zoning Administrator shall thereupon furnish a copy thereof to the applicant and to the Director of Planning. No variance granted by the Zoning Administrator shall become effective until ten days thereafter. An appeal shall stay all proceedings in furtherance of the action appealed from.

CONDITIONAL USE. The Commission shall have the power to hear and decide conditional use applications. An appeal may be taken to the Board of Supervisors from a decision of the Commission to grant or deny a conditional use application. The Board of Supervisors may disapprove the decision of the Commission by a vote of not less than two-thirds of the members of the Board.

### SEC. 4.106. BOARD OF APPEALS.

(a) The Board of Appeals shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

The Board shall appoint and may remove an executive secretary, who shall serve

as department head.

(b) The Board shall hear and determine appeals with respect to any person who has been denied a permit or license, or whose permit or license has been suspended, revoked or withdrawn, or who believes that his or her interest or the public interest will be adversely affected by the grant, denial, suspension or revocation of a license or permit, except for a permit or license under the jurisdiction of the Recreation and Park Commission or Department, or the Port Commission, or a building or demolition permit for a project that has received a permit or license pursuant to a conditional use authorization.

(c) The Board of Appeals shall hear and determine appeals:

1. Where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the provisions of any ordinance adopted by the Board of Supervisors creating zoning districts or regulating the use of property in the city and county; or

2. From the rulings, decisions and determinations of the Zoning Administrator granting or denying applications for variances from any rule, regulation, restriction or requirement of the zoning or set-back ordinances, or any section thereof. Upon the hearing of such appeals, the Board may affirm, change, or modify the ruling, decision or determination appealed from, or, in lieu thereof, make such other additional determinations as it shall deem proper in the premises, subject to the same limitations as are placed upon the Zoning Administrator by this Charter or by ordinance.

(d) After a hearing and any necessary investigation, the Board may concur in the action of the department involved, or by the affirmative vote of four members (or if a vacancy exists, by a vote of three members) overrule the action of the Department.

Where the Board exercises its authority to modify or overrule the action of a department, the Board shall state in summary its reasons in writing.

## SEC. 4.107. HUMAN RIGHTS COMMISSION.

The Human Rights Commission shall consist of eleven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

The Commission shall:

1. Investigate complaints of unlawful discrimination against any person;

2. Ensure the civil rights of all persons;

- 3. Ensure that the affirmative action plans of each department of the City and County are current and are being properly implemented; and report on the implementation of such affirmative action plans to the Mayor and Board of Supervisors;
- 4. Promote understanding among the residents of the City and County and work cooperatively with governmental agencies, community group and others to eliminate discrimination and the results of past discrimination by furnishing information, guidance and technical assistance;

5. Study, investigate, mediate and make recommendations with respect to the solving of community-wide problems resulting in intergroup tensions and discrimina-

tion;

6. Implement the provisions of ordinances prohibiting discrimination in all contracts and subsequent subcontracts, franchises, leases, concessions or other agreements for or on behalf of the City and County; and

Section 4.107

7. Issue such rules and regulations for the conduct of its business, and prepare such ordinances with respect to human rights for consideration by the Board of Supervisors as are necessary to carry out the purposes of this section.

In performing its duties, the Commission may hold hearings, issue subpoenas to require witnesses to appear and require the production of evidence, administer oaths, take testimony and issue appropriate orders and petitions for court orders in such manner as may be prescribed by law.

## SEC. 4.108. FIRE COMMISSION.

The Fire Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

# SEC. 4.109. POLICE COMMISSION.

The Police Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

Notwithstanding any other provision of the Charter, the Chief of Police may be removed by the Commission or the Mayor, acting jointly or separately of each other.

# SEC. 4.110. HEALTH COMMISSION.

The Health Commission shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. The Commission shall have less than a majority of direct care providers. Members may be removed by the Mayor only pursuant to Section 15.105. The Commission shall control the property under its jurisdiction.

The Commission and the Department shall manage and control the City and County hospitals, emergency medical services, and in general provide for the preservation, promotion and protection of the physical and mental health of the inhabitants of the City and County, except where the Charter grants such authority to another officer or department. The Commission and the Department may also determine the nature and character of public nuisances and provide for their abatement.

#### SEC. 4.111. HUMAN SERVICES COMMISSION.

The Human Services Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.

# SEC. 4.112. PUBLIC UTILITIES COMMISSION.

The Public Utilities Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.

The Commission shall have charge of the construction, management, supervision, maintenance, extension, operation, use and control of all water and energy supplies and utilities of the City as well as the real, personal and financial assets, which are under the Commission's jurisdiction on the operative date of this Charter, or assigned pursuant to Section 4.132.

# SEC. 4.113. RECREATION AND PARK COMMISSION.

The Recreation and Park Commission shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.

Pursuant to the policies and directives set by the Commission and under the direction and supervision of the General Manager, the Recreation and Park Department shall manage and direct all parks, playgrounds, recreation centers and all other recreation facilities, avenues and grounds under the Commission's control or placed under its jurisdiction thereafter, unless otherwise specifically provided in this Charter.

The Department shall promote and foster a program providing for organized public recreation of the highest standard.

The Department shall issue permits for the use of all property under the Commission's control, pursuant to the policies established by the Commission.

As directed by the Commission, the Department shall administer the Open Space Fund pursuant to Section 16.107 of this Charter.

The Department shall have the power to construct new parks, playgrounds, recreation centers, recreation facilities, squares and grounds, and to erect and maintain buildings and structures on parks, playgrounds, square, avenues and grounds, provided that all plans, specifications and estimates in connection therewith shall be prepared by the Department of Public Works and be subject to approval by the Commission, except as follows:

- 1. No building or structure, except for nurseries, equipment storage facilities and comfort stations, shall be erected, enlarged or expanded in Golden Gate Park or Union Square Park unless such action has been approved by a vote of two-thirds of the Board of Supervisors;
- 2. No park land may be sold or leased for non-recreational purposes, nor shall any structure on park property be built, maintained or used for non-recreational purposes, unless approved by a vote of the electors. However, with permission of the Commission and approval by the Board of Supervisors, subsurface space under any public park, square or playground may be used for the operation of a public automobile parking station under the authority of the Department of Parking and Traffic, provided that the Commission determines that such a use would not be, in any material respect or degree, detrimental to the original purpose for which a park, square or playground was dedicated or in contravention of the conditions of any grant under which a park, square or playground might have been received. The revenues derived from any such use, less the expenses incurred by the Department of Parking and Traffic in operating these facilities, shall be credited to Recreation and Park Department funds.
- 3. The Commission shall have the power to lease or rent any stadium or recreation field under its jurisdiction for athletic contests, exhibitions and other special events and may permit the lessee to charge an admission fee.

# SEC. 4.114. PORT COMMISSION.

The Port Commission shall consist of five members who shall be appointed by the Mayor, subject to confirmation by a majority of the Board of Supervisors. Each of the members shall serve for a term of four years. They shall be subject to recall, suspension and removal in the same manner as an elected official.

Section 4.114

The Commission shall have the composition and organization, and the powers, duties and responsibilities with respect to the Port that are set forth in the Burton Act, Statutes of 1968, Chapter 1333, as amended, and in the Agreement Relating to the Transfer of the Port of San Francisco from the State of California to the City and County, executed on the 24th day of January 1969.

The Commission shall be subject to the provisions of Sections 4.101 through 4.103 of this Charter, so far as those powers and duties are not inconsistent with the Burton Act and the Transfer Agreement as they are referred to in the above paragraph.

## SEC. 4.115. AIRPORT COMMISSION.

The Airport Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.

The Commission shall provide the Mayor with at least three qualified candidates for Director of Airports, related on the basis of executive, administrative and technical qualifications.

The Commission shall have charge of the construction, management, supervision, maintenance, extension, operation, use and control of all property, as well as the real, personal and financial assets which are under the Commission's jurisdiction.

Subject to the approval, amendment or rejection of the Board of Supervisors of each issue, the Commission shall have exclusive authority to plan and issue revenue bonds for airport-related purposes.

# SEC. 4.116. PARKING AND TRAFFIC COMMISSION.

The Parking and Traffic Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

If not in conflict with state law, members of the Commission, or its successor, shall serve ex officio as members of the Parking Authority. Any person may serve concurrently as a member of the Parking Authority and the Parking and Traffic Commission. The Commission shall control all property under its jurisdiction.

#### SEC. 4.117. PUBLIC TRANSPORTATION COMMISSION.

The Public Transportation Commission shall consist of five members who shall be appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor. No less than three members of the Commission shall possess knowledge of, or professional experience in, the field of public transportation. No less than two members of the Commission shall be regular riders of the City's public transportation system, and shall continue to be regular riders during their terms as commissioners.

The Board of Supervisors shall have the power by ordinance to abolish the Parking and Traffic Commission and transfer the functions of the Department of Parking and Traffic into the Public Transportation Commission. Thereafter, the Department of Transportation shall be comprised of a Bureau of Public Transit and a Bureau of Parking and Traffic.

Effective upon the abolishment of the Parking and Traffic Commission, two members shall be appointed by the Mayor to the Public Transportation Commission, which shall increase to seven members, for a term of four years, provided that the

respective terms of office of those first appointed shall be one for two years and one for four years. The Commission shall control all property under its jurisdiction.

#### SEC. 4.118. COMMISSION ON THE ENVIRONMENT.

The Commission on the Environment shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

The Department of the Environment shall regularly produce an assessment of San Francisco's environmental condition. It shall also produce and regularly update plans for the long-term environmental sustainability of San Francisco.

Pursuant to the policies and directives set by the Commission, and under the supervision and direction of the department head, the Department shall manage the environmental programs, duties and functions assigned to it pursuant to Section 4.132 or by ordinance.

The Commission shall have the authority to review and make recommendations on any policy proposed for adoption by any City agency regarding conformity with the long-term plans for environmental sustainability, except for those regarding building and land use.

The Commission may investigate and make recommendations to all City agencies related to operations and functions, such as:

- 1. Solid waste management;
- 2. Recycling;
- 3. Energy conservation;
- 4. Natural resource conservation;
- 5. Environmental inspections;
- 6. Toxics:
- 7. Urban forestry and natural resources;
- 8. Habitat restoration; and
- 9. Hazardous materials.

The Commission shall conduct public education and outreach to the community on environmental issues, including, but not limited to each of the categories listed above.

# SEC. 4.119. COMMISSION ON THE STATUS OF WOMEN.

The Commission on the Status of Women shall consist of seven members. Commission members shall be appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105. The Commission shall develop and recommend policies and practices for the City and County to reduce the particular impacts on women and girls of problems such as domestic violence, sexual harassment, employment and health care inequity, and homelessness, as well as advocate on behalf of women and girls in such areas. The Commission may be assigned additional duties and functions by ordinance or pursuant to Section 4.132.

# SEC. 4.120. COMMISSION ON THE AGING.

The Commission on the Aging shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by

San Francisco Charter Section 4.120

the Mayor. The duties and functions of the Commission shall be assigned pursuant to Section 4.132.

## SEC. 4.121. BUILDING INSPECTION COMMISSION.

The Building Inspection Commission shall consist of seven members. Four members shall be appointed by the Mayor for a term of two years. Three members shall be appointed by the President of the Board of Supervisors for a term of two years. Members may be removed by the appointing officer only pursuant to Section 15.105. Vacancies occurring in the offices of appointive members, either during or at the expiration of a term, shall be filled by the appointing officer.

The four Mayoral appointments shall consist of a structural engineer, a licensed architect, a residential builder, and a representative of a community-based non-profit housing development corporation. The three Supervisorial appointments shall consist of a residential tenant, a residential landlord, and a member of the general public.

Notwithstanding any other provision of the Charter, the Commission shall have the power to appoint and remove a department head.

## SEC. 4.122. YOUTH COMMISSION.

There is hereby established a commission to be known as the Youth Commission (hereinafter called "Commission") to advise the Board of Supervisors and Mayor on issues relating to children and youth. The Commission shall operate under the jurisdiction of the Board of Supervisors.

# SEC. 4.123. YOUTH COMMISSION MEMBERSHIP; APPOINTMENT; TERMS; MEETINGS; COMPENSATION; DIRECTOR.

(a) Commission Membership. The Commission shall consist of seventeen (17) voting members, each of whom shall be between the ages of 12 and 23 years at the time of appointment. Each member of the Board of Supervisors and the Mayor shall appoint one member to the Commission. The Mayor shall also appoint five (5) members from underrepresented communities to ensure that the Commission represents the diversity of the City. All appointments shall be completed by the sixtieth day after the effective date of this charter amendment and by that date of each year thereafter. Commission members shall serve at the pleasure of their appointing authorities.

The Commission shall consist of individuals who have an understanding of the needs of young people in San Francisco, or experience with children and youth programs or youth organizations, or involvement with school or community activities. The members shall represent the diversity of ethnicity, race, gender and sexual orientation of the people of the City and County, and shall be residents of the City and County.

(b) Term of Office. Members shall serve a term of one year. The first one year term for all members shall begin upon the date the Clerk of the Board of Supervisors certifies that all members of the Commission have been appointed following the adoption of this charter amendment. Future terms of office shall begin on that date of each successive year. Members shall conduct the first meeting of the Commission within thirty days of the appointment of all members.

In the event a vacancy occurs during the term of office of any voting member, a successor shall be appointed to complete the unexpired term of the office vacated in a manner similar to that which the member was initially appointed.

- (c) Removal of Members. Any member whom the Commission certifies to have missed three regularly scheduled meetings of the Commission in any six month period without prior authorization of the Commission shall be deemed to have resigned from the Commission effective on the date of the written certification from the Commission.
- (d) Compensation. Members of the Commission shall not be compensated, nor shall they be reimbursed for expenses.

(e) Meetings. The Commission shall meet at least once a month.

- (f) Minutes of Meetings. The Commission shall prepare and maintain permanent minutes of the actions taken during its meetings, and shall file copies with the Clerk of the Board of Supervisors.
- (g) Bylaws. To aid in the orderly conduct of business, the Commission shall have the authority to create, amend, and repeal its own code of bylaws.

# SEC. 4.124. YOUTH COMMISSION—PURPOSE AND DUTIES.

The purpose of the Commission is to collect all information relevant to advising the Board of Supervisors and Mayor on the effects of legislative policies, needs, assessments, priorities, programs, and budgets concerning the children and youth of San Francisco. Before the Board of Supervisors takes final action on any matter that primarily affects children and youth of the City and County, the Clerk of the Board of Supervisors shall refer the matter to the Commission for comment and recommendation. The Commission shall provide any response it deems appropriate within 12 days of the date the Board of Supervisors referred the matter to the Commission. After the 12 day period has elapsed, the Board of Supervisors may act on the matter whether or not the Board has received a response. This referral requirement shall not apply to any matter where immediate action by the Board of Supervisors is necessary to protect the public interest. The Commission shall have the following duties and functions:

(a) Identify the concerns and needs of the children and youth of San Francisco; examine existing social, economic, educational, and recreational programs for children and youth; develop and propose plans that support or improve such programs; and make recommendations thereon to the Mayor and Board of Supervisors.

(b) Identify the unmet needs of San Francisco's children and youth through personal contact with these young people, school officials, church leaders, and others; and hold public forums in which both youth and adults are encouraged to participate.

(c) Elicit the interest, support, and mutual cooperation of private groups (such as fraternal orders, service clubs, associations, churches, businesses, and youth organizations) and city-wide neighborhood planning collaborative efforts for children, youth and families that initiate and sponsor recommendations that address the social, economic, educational, and recreational needs of children and youth in San Francisco. Advise the Board of Supervisors and Mayor about how such recommendations could be coordinated in the community to eliminate duplication in cost and effort.

(d) Advise about available sources of governmental and private funding for youth programs.

- (e) Submit recommendations to the Mayor and Board of Supervisors about juvenile crime prevention, job opportunities for youth, recreational activities for teenagers, opportunities for effective participation by youth in the governmental process, and changes in city and county regulations that are necessary to improve the social, economic, educational, and recreational advantages of children and youth.
- (f) Respond to requests for comment and recommendation on matters referred to the Commission by officers, departments, agencies, boards, commissions and advisory committees of the City and County.
- (g) Report to the Board of Supervisors the activities, goals, and accomplishments of the Commission by July 1 of each calendar year, effective July 1, 1997.

## SEC. 4.125. JURISDICTION.

The Commission shall be under the jurisdiction of the Board of Supervisors; the Commission shall have only those powers created by Sections 4.122 through 4.125 or by ordinance of the Board of Supervisors.

# SEC. 4.126. DEPARTMENTS—GENERAL PROVISIONS.

Except as otherwise provided by this Charter, the responsibilities of each department within the executive branch shall be prescribed by ordinance.

The administration and management of each department within the executive branch shall be the responsibility of the department head. Such officials may:

- 1. Appoint qualified individuals to fill all positions within their departments which are exempt from the Civil Service provisions of this Charter;
- 2. Adopt rules and regulations governing matters within the jurisdiction of their respective departments, subject, if applicable, to Section 4.102; and
- 3. With the approval of the City Administrator, reorganize their respective departments.

No person serving on a board or commission created by state law to discharge a state function specifically within the City and County may be employed as a paid staff member to a board or commission created by this Charter.

## SEC. 4.127. POLICE DEPARTMENT.

The Police Department shall preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California and the City and County.

The Chief of Police may appoint and remove at pleasure special police officers.

The Chief of Police shall have all powers which are now or that may be conferred upon a sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority.

DISTRICT POLICE STATIONS. The Police Department shall maintain and operate district police stations. The Police Commission, subject to the approval by the Board of Supervisors, may establish additional district stations, abandon or relocate any district station, or consolidate any two or more district stations.

OFFICE OF CITIZEN COMPLAINTS. The Mayor shall appoint a nominee of the Police Commission as the director of the Office of Citizen Complaints, subject to confirmation by the Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the Board fails to act on the appointment within 30 days,

CH-29 (6-98)

the appointment shall be deemed approved. In the event the office is vacant, until the mayor makes an appointment and that appointment is confirmed by the Board, the Police Commission shall appoint an interim director who shall serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil service requirements of this Charter. The director shall never have been a uniformed member or employee of the department. The director of the Office of Citizen Complaints shall be the appointing officer under the civil service provisions of this Charter for the appointment, removal or discipline of employees of the Office of Citizen Complaints.

The Police Commission shall have the power and duty to organize, reorganize and manage the Office of Citizen Complaints. Subject to the civil service provisions of this Charter, the Office of Citizen Complaints shall include investigators and hearing officers. As of July 1, 1996, the staff of the Office of Citizen Complaints shall consist of no fewer than one line investigator for every 150 sworn members. Whenever the ratio of investigators to police officers specified by this section is not met for more than 30 consecutive days, the director shall have the power to hire, and the city Controller must pay, temporary investigators to meet such staffing requirements. No full-time or part-time employee of the Office of Citizen Complaints shall have previously served as a uniformed member of the department. Subject to rule of the Police Commission, the director of the Office of Citizen Complaints may appoint part-time hearing officers who shall be exempt from the civil service requirements of this Charter. Compensation of the hearing officers shall be at rates recommended by the Commission and established by the Board of Supervisors or by contract approved by the Board of Supervisors.

Complaints of police misconduct or allegations that a member of the Police Department has not properly performed a duty shall be promptly, fairly and impartially investigated by staff of the Office of Citizen Complaints. The Office of Citizen Complaints shall investigate all complaints of police misconduct, or that a member of the Police Department has not properly performed a duty, except those complaints which on their face clearly indicate that the acts complained of were proper and those complaints lodged by other members of the Police Department. The Office of Citizen Complaints shall recommend disciplinary action to the Chief of Police on those complaints that are sustained. The director of the Office of Citizen Complaints shall schedule hearings before hearing officers when such is requested by the complainant or a member of the department and, in accordance with rules of the Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that the Office of Citizen Complaints shall in the same manner investigate and make recommendations to the Chief of Police regarding complaints of misconduct by patrol special police officers and their uniformed employees.

Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a member of the department under his or her command, or taking disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of Police and the Police Commission by other provisions of this Charter.

The Office of Citizen Complaints shall prepare in accordance with rules of the Commission monthly summaries of the complaints received and shall prepare recommendations quarterly concerning policies or practices of the department which

(6-98) CH-30

San Francisco Charter Section 4.127

could be changed or amended to avoid unnecessary tension with the public or a definable segment of the public while insuring effective police services. The Office of Citizen Complaints shall prepare a report for the President of the Board of Supervisors each quarter. This report shall include, but not be limited to, the number and type of complaints filed, the outcome of the complaints, and a review of the disciplinary

CH-30.1 (6-98)

action taken. The President of the Board of Supervisors shall refer this report to the appropriate committee of the Board of Supervisors charged with public safety responsibilities. Said committee may issue recommendations as needed.

In carrying out its objectives the Office of Citizen Complaints shall receive prompt and full cooperation and assistance from all departments, officers and employees of the City and County. The director may also request and the Chief of Police shall require the testimony or attendance of any member of the Police Department to carry out the responsibilities of the Office of Citizen Complaints.

BUDGET. Monetary awards and settlements disbursed by the City and County as a result of police action or inaction shall be taken exclusively from a specific appropriation listed as a separate line item in the Police Department budget for that purpose.

POLICE STAFFING. The police force of the City and County shall at all times consist of not fewer than 1,971 full duty sworn officers. The staffing level of the Police Department shall be maintained with a minimum of 1,971 full duty sworn officers thereafter.

All officers and employees of the City and County are directed to take all acts necessary to implement the provisions of this section. The Board of Supervisors is empowered to adopt ordinances necessary to effectuate the purpose of this section including but not limited to ordinances regulating the scheduling of police training cases.

Further, the Commission shall initiate an annual review to civilianize as many positions as possible to maximize police presence in the communities and submit that report to the Board of Supervisors annually for review and approval.

The number of full duty sworn officers in the Police Department dedicated to neighborhood policing and patrol for fiscal year 1993-1994 shall not be reduced in future years, and all new full duty sworn officers authorized for the Police Department shall also be dedicated to neighborhood community policing, patrol and investigations.

PATROL SPECIAL POLICE OFFICERS. The Commission may appoint patrol special police officers and for cause may suspend or dismiss patrol special police officers after a hearing on charges duly filed with the Commission and after a fair and impartial trial. Patrol special police officers shall be regulated by the Police Commission, which may establish requirements for and procedures to govern the position, including the power of the Chief of Police to suspend a patrol special police officer pending a hearing on charges. Each patrol special police officer shall be at the time of appointment not less than 21 years of age and must possess such physical qualifications as may be required by the Commission.

Patrol special police officers may be designated by the Commission as the owners of a certain beat or territory which may be established or rescinded by the Commission. Patrol special police officers designated as the owners of a certain beat or territory or the legal heirs or representatives of the owners may dispose of their interest in the beat or territory to a person of good moral character, approved by the Police Commission and eligible for appointment as a patrol special police officer.

Commission designation of beats or territories shall not affect the ability of private security companies to provide on-site security services on the inside or at the entrance of any property located in the City and County.

## SEC. 4.128. FIRE DEPARTMENT.

The Fire Department shall perform duties and enforce all applicable laws pertaining to the protection from, and the prevention, suppression, control and investigation of fires.

The Fire Chief shall cause the Fire Department to inspect all occupied or vacated structures to determine compliance with applicable laws relative to fire prevention, protection and control and also the protection of persons and property from fire.

The Fire Chief may during a conflagration cause to be removed any structure for the purpose of checking the progress of the conflagration.

# SEC. 4.129. DEPARTMENT OF ADMINISTRATIVE SERVICES.

The director of the Department of Administrative Services shall purchase all supplies, equipment and contractual services required by the several departments and offices of the City and County, except as otherwise provided in the Administrative Code. Except in cases of emergency, the director shall not enter into any contract or issue any purchase order unless the Controller shall certify thereon that sufficient unencumbered balances are available in the proper fund to meet the payments under such purchase order or contract as these become due. The director shall have charge of the central warehouses, central storerooms, central garage and shop.

The director shall by rules and regulations approved by the Controller, designate and authorize appropriate personnel within the Department of Administrative Services to exercise the director's signature powers for purchase orders and contract.

The director shall have authority to exchange used materials, supplies and equipment to the advantage of the City and County, advertise for bids, and to sell and otherwise dispose of personal property belonging to the City and County. The director shall have authority to require the transfer of surplus property in any department to stores or to other departments.

The director shall manage all public buildings, facilities and real estate of the City and County, unless otherwise provided for in this Charter:

Additional duties and functions of the Department of Administrative Services shall be assigned the City Administrator, by ordinance or pursuant to Section 4.132.

## SEC. 4.130. DEPARTMENT OF PUBLIC WORKS.

The duties and functions of the Department of Public Works shall be assigned by the City Administrator, by ordinance or pursuant to Section 4.132.

## SEC. 4.131. COUNTY CLERK.

The County Clerk shall perform all duties of the County Clerk-Recorder until such office is merged into the Office of the Assessor-Recorder pursuant to Section 6.101.

# SEC. 4.132. EXECUTIVE BRANCH REORGANIZATION.

The Mayor, by issuing a notice to the Board of Supervisors, may reorganize duties and functions between departments and other units of government within the executive branch. Such reorganization shall become effective 30 days after its issuance unless disapproved by the Board of Supervisors during that time.

San Francisco Charter Section 4.132

A proposed reorganization shall provide for the transfer of:

1. Civil service employees who are engaged in the performance of a function or duty transferred to another office, agency or department; such transfer shall not adversely affect status, position, compensation or pension or retirement rights and privileges;

2. Any unexpended balances of appropriations and other funds available for use in connection with any office, agency, department or function affected by the reorganization; any unexpended balance so transferred shall be used only for the purpose for which the appropriation was originally made, except as this Charter otherwise permits.

# SEC. 4.133. TAXI COMMISSION.

(a) The Taxi Commission shall consist of seven members, appointed by the Mayor. The appointments shall include a member from the senior or disabled communities, a driver who does not hold a taxicab medallion, a manager in a taxicab company (either a medallion holder or a company representative), a member from the hospitality industry, a member from the labor community, a member from the neighborhoods, and a member of the general public not affiliated with any of the other enumerated categories.

Pursuant to Government Code Section 87103, individuals appointed to the Commission under this Section are intended to represent and further the interest of the particular industries, trades, or professions specified herein. Accordingly, it is found that for purposes of persons who hold such office, the specified industries, trades, or professions are tantamount to and constitute the public generally within the meaning of Government Code Section 87103.

The commissioners appointed to take office upon the effective date of this Charter section shall by lot classify their terms so that the terms of three of the commissioners shall expire at noon on the first anniversary of such date, and the terms of the remaining four commissioners shall expire at noon on the second anniversary of the effective date. On the expiration of these and successive terms of office, the appointments shall be made for two-year terms.

Members may be removed by the Mayor only pursuant to Section 15.105. Vacancies occurring in the offices of members, either during or at the expiration of a term, shall be filled by the Mayor.

- (b) Effective March 1, 1999, the Commission shall succeed to all powers and responsibilities relating to taxicabs and other motor vehicles for hire, other than criminal enforcement, now vested in the Police Commission, the Police Department or the Chief of Police. The Taxi Commission may be assigned additional duties and functions by ordinance or pursuant to Section 4.132.
- (c) All costs associated with the operations of the Taxi Commission, and such officers and employees as are necessary for the Commission to operate and administer the department and are authorized pursuant to the budgetary and fiscal provisions of the Charter, shall be recovered from permit, license and other fees charged to permitholders, applicants, and other persons by the Commission. The Board of Supervisors shall set fees sufficient to offset the costs of the Commission's operations and any such officers and employees. Notwithstanding the above, the Board of Supervisors may continue to offer reduced fees to operators who participate in the City's

CH-33 (3-99)

Section 4.133 San Francisco Charter

Paratransit Program, and offset the reduction in revenues with a contribution from the General Fund. (Added November 1998)

(3-99) CH-34

San Francisco Charter Section 5.100

## ARTICLE V

# EXECUTIVE BRANCH—ARTS AND CULTURE

## SEC. 5.100. GENERAL.

The arts and culture departments of the City and County shall be the Arts Commission, the Asian Art Museum of San Francisco, the Fine Arts Museums of San Francisco and the War Memorial and Performing Arts Center. These departments shall be a part of the executive branch of City and County government.

The terms of office of all trustees and commissioners shall continue as they existed on the effective date of this Charter. All vacancies shall be filled within 90

days.

The governing boards of the arts and culture departments may accept and shall comply with the terms and conditions of loans, gifts, devises, bequests or agreements donating works of art or other assets to their department without action of the Board of Supervisors so long as acceptance of the same entails no expense for the City and County beyond ordinary care and maintenance.

# SEC. 5.101. CHARITABLE TRUST DEPARTMENTS.

For the purposes of this Article, the Asian Art Museum of San Francisco, The Fine Arts Museums of San Francisco and the War Memorial and Performing Arts Center are referred to as the "charitable trust departments."

Nothing in this Article shall be construed to limit or change the powers and responsibilities of the governing boards of the charitable trust departments insofar as they involve administration of the charitable trusts, gifts and contracts for which they are responsible.

The charitable trust departments shall have exclusive charge of the trusts and all other assets under their jurisdiction, which may be acquired by loan, purchase, gift, devise, bequest or otherwise, including any land or buildings set aside for their use. They shall have authority to maintain, operate, manage, repair or reconstruct existing buildings and construct new buildings, and to make and enter into contracts relating thereto, subject, insofar as City funds are to be used, to the budgetary and fiscal provisions of this Charter.

# SEC. 5.102. CITY MUSEUMS.

When the term "museums" is used in this Article, unless otherwise specified, it refers to both the Asian Art Museum of San Francisco and The Fine Arts Museums of San Francisco.

Trustees and commissioners of the museums are exempt from the requirement of Section 4.101(2) of this Charter, except that at least a majority of The Fine Arts Museum Board of Trustees shall be residents of the City and County. Members shall serve for three-year terms, and may be removed by the Mayor only pursuant to Section 15.105. Members shall serve without compensation.

The governing boards of the museums shall adopt by-laws providing for the conduct of their affairs, including the appointment of an executive committee which shall have authority to act in such matters as are specified by the governing board.

The governing boards of the museums shall appoint and may remove a director and such other executive and administrative positions as may be necessary. Appointees to such positions need not be residents of the City and County. Notwithstanding any other provision of this Charter, the governing boards may accept and utilize contributions to supplement or pay for the salaries and benefits of these appointees in order to establish competitive compensation, provided that only compensation established pursuant to the salary provisions of this Charter shall be considered for Retirement System purposes.

The governing boards of the museums may insure any loaned exhibit and agree to indemnification and binding arbitration provisions necessary to insuring exhibitions without action of the Board of Supervisors so long as such agreement entails no expense to the City and County beyond ordinary insurance expense. The Recreation and Park Department shall maintain and care for the grounds of the Museums.

## SEC. 5.103. ARTS COMMISSION.

The Arts Commission shall consist of fifteen members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Eleven members shall be practicing arts professionals including two architects, a landscape architect, and representatives of the performing, visual, literary and media arts; and four members shall be lay members. The President of the Planning Commission, or a member of the Commission designated by the President, shall serve ex officio. Members may be removed by the Mayor.

The Commission shall appoint and may remove a director of the department. The Commission shall encourage artistic awareness, participation and expression; education in the arts; assist independent local groups with the development of their own programs; promote the employment of artists and those skilled in crafts, in the public and private sectors; provide liaison with state and federal agencies to ensure increased funding for the arts from these agencies as well as represent arts issues and policy in the respective governmental bodies; promote the continued availability of living and working space for artists within the City and County; and enlist the aid of all City and County governmental units in the task of ensuring the fullest expression of artistic potential by and among the residents of San Francisco.

In furtherance of the foregoing the Arts Commission shall:

1. Approve the designs for all public structures, any private structure which extends over or upon any public property and any yards, courts, set-backs or usable open spaces which are an integral part of any such structures;

2. Approve the design and location of all works of art before they are acquired, transferred or sold by the City and County, or are placed upon or removed from City and County property, or are altered in any way; maintain and keep an inventory of works of art owned by the City and County; and maintain the works of an owned by the City and County;

- 3. Promote a neighborhood arts program to encourage and support an active interest in the arts on a local and neighborhood level, assure that the City and County-owned community cultural centers remain open, accessible and vital contributors to the cultural life of the City and County, establish liaison between community groups and develop support for neighborhood artists and arts organizations; and
- 4. Supervise and control the expenditure of all appropriations made by the Board of Supervisors for the advancement of the visual, performing or literary arts.

Nothing in this section shall be construed to limit or abridge the powers or exclusive jurisdiction of the charitable trust departments or the California Academy of Sciences or the Library Commission over their activities; the land and buildings set aside for their use; or over the other assets entrusted to their care.

# SEC. 5.104. ASIAN ART MUSEUM OF SAN FRANCISCO.

The Asian Art Commission shall consist of twenty-seven trustees appointed by the Mayor. In filling vacancies, the Mayor shall solicit nominations from the Commission and shall give due consideration to such nominees in filling such vacancies to the end that the members of the Commission shall be representative of the fields of Asian art and culture by reason of their knowledge, experience, education, training, interest or activity therein.

The Commission shall:

- 1. Develop and administer that museum which is known as the "Asian Art Museum of San Francisco," or by such other title as may be chosen by not less than two-thirds of the members of the Commission;
- 2. Control and manage the City and County's Asian art with the Avery Brundage Collection as its nucleus, consistent with the conditions applicable to the Brundage Collection and other gifts;
- 3. Maintain a charitable foundation or other legal entity for the purpose of developing the Asian Art Museum;
- 4. Promote, establish and develop an acquisition fund for Asian art objects; and
- 5. Collaborate with other groups and institutions to extend and deepen the activities necessary to establish the Asian Art Museum as the outstanding center of Asian art and culture in the western world.

# SEC. 5.105. THE FINE ARTS MUSEUMS OF SAN FRANCISCO.

The California Palace of Legion of Honor and the M.H. de Young Memorial Museum shall compromise the Fine Arts Museums of San Francisco, or such other title as may be chosen by not less than two-thirds of the trustees of the Fine Arts Museums. The Fine Arts Museums Board of Trustees shall consist of 62 members to be elected by the members of the Board. On a vote of the majority of members, the number of Trustees may be increased or decreased from time to time as needed, provided that the number of Trustees shall not be more than 62, and provided further that a vote to decrease the number shall not affect the power or tenure of any incumbent. The Board may act by majority of the members present at meeting in which a quorum is in attendance.

In selecting members to serve on the Board, the Board of Trustees shall give due consideration to nominees who are broadly representative of the diverse communities of the City and County and knowledgeable in the fields of art and culture, as demonstrated by their experience, training, interest or philanthropic activity.

A quorum of the Board shall consist of one-third of the number of trustees in office at the time. A majority or two-thirds vote of the Board shall mean a majority or two-thirds vote of the number of trustees present at the meeting at which the vote is taken.

The Board is responsible for the protection and conservation of the assets of the Fine Arts Museums and for setting the public course the Museums will follow. The

Board shall assure that the Museums are open, accessible and vital contributors to the cultural life of the City and County, and that the Museums' programs bring art appreciation and education to all the people of the City and County.

The Board may enter into agreements with a not-for-profit or other legal entity to develop or operate the museums and to raise and maintain funds for the museums'

support.

# SEC. 5.106. WAR MEMORIAL AND PERFORMING ARTS CENTER.

The governing board of the War Memorial and Performing Arts Center shall consist of eleven trustees appointed by the Mayor, pursuant to Section 3.100, for four-year terms. In making appointments the Mayor shall give due consideration to veterans and others who have a special interest in the purposes for which the Center exists. Members may be removed by the Mayor only pursuant to Section 15.105.

The governing board shall appoint and may remove a director.

#### ARTICLE VI

#### OTHER ELECTIVE OFFICERS

# SEC. 6.100. DESIGNATION OF OTHER ELECTIVE OFFICERS.

In addition to the officers required to be elected under other Articles of this Charter, the following shall constitute the elective officers of the City and County: the Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff and Treasurer. Each such officer shall be elected for a four-year term and shall serve full time.

The City Attorney shall be licensed to practice law in all courts of the State of California and shall have been so licensed for at least ten years next preceding his or her election. The District Attorney and Public Defender shall each be licensed to practice law in all courts of the State of California and shall have been so licensed for at least five years next preceding his or her election. Such officers shall not engage in the private practice of law during the period they serve as elective officers of the City and County.

Subject to the powers and duties set forth in this Charter, the officers named in this section shall have such additional powers and duties prescribed by state laws for their respective office. The terms of office in effect for these officers on the date this Charter is adopted shall continue.

# SEC. 6.101. ASSESSOR-RECORDER.

The Assessor-Recorder shall:

- 1. Equitably and effectively administer the property assessment system of the City and County; and
- 2. Exercise the duties of Assessor and Recorder provided under state law, effective July 1, 1997.

## SEC. 6.102. CITY ATTORNEY.

The City Attorney shall:

- 1. Represent the City and County in legal proceedings with respect to which it has an interest:
- 2. Represent an officer or official of the City and County when directed to do so by the Board of Supervisors, unless the cause of action exists in favor of the City and County against such officer or official;
- 3. Whenever a cause of action exists in favor of the City and County, commence legal proceedings when such action is within the knowledge of the City Attorney or when directed to do so by the Board of Supervisors, except for the collection of taxes and delinquent revenues, which shall be performed by the attorney for the Tax Collector:
- 4. Upon request, provide advice or written opinion to any officer, department head or board, commission or other unit of government of the City and County;
- 5. Make recommendations for or against the settlement or dismissal of legal proceedings to the Board of Supervisors prior to any such settlement or dismissal. Such proceedings shall be settled or dismissed by ordinance and only upon the recommendation of the City Attorney;

- 6. Approve as to form all surety bonds, contracts and, prior to enactment, all ordinances; and examine and approve title to all real property to be acquired by the City and County;
- 7. Prepare, review annually and make available to the public a codification of ordinances of the City and County then in effect;

8. Prepare and make available to the public an annual edition of this Charter

complete with all of its amendments and legal annotations; and

9. Establish in the Office of the City Attorney a Bureau of Claims Investigation and Administration which shall have the power to investigate, evaluate and settle for the several boards, commissions and departments all claims for money or damages. The Bureau shall also have the power to investigate incidents where the City faces potential civil liability, and to settle demands before they are presented as claims, within dollar limits provided for by ordinance, from a revolving fund to be established for that purpose. The City Attorney shall appoint a chief of the Bureau who shall serve at his or her pleasure. The chief of the Bureau may appoint, subject to confirmation by the City Attorney, investigators who shall serve at the pleasure of the chief.

## SEC. 6.103. DISTRICT ATTORNEY.

The District Attorney shall:

- 1. Investigate all allegations of violations of laws which the District Attorney has the power to prosecute in court or before any other trier of fact;
- 2. Prosecute all criminal cases in the appropriate courts and issue warrants for the arrest of persons charged with crimes to be prosecuted in such courts; and
  - 3. Proceed in such civil cases as authorized by state law.

# SEC. 6.104. PUBLIC DEFENDER.

The Public Defender shall, upon the request of an accused who is financially unable to employ counsel, or upon order of the Court, defend or give counsel or advice to any person charged with the commission of a crime or in danger of criminal prosecution.

# SEC. 6.105. SHERIFF.

The Sheriff shall:

- 1. Keep the county jail;
- 2. Receive all prisoners committed to jail by competent authorities;
- 3. Execute the orders and legal processes issued by courts of the State of California;
  - 4. Upon court order detail necessary bailiffs; and
- 5. Execute the orders and legal processes issued by the Board of Supervisors or by any legally authorized department or commission.

The Sheriff shall appoint, and at his or her pleasure may remove, an attorney, one under-sheriff, one assistant sheriff and one confidential secretary.

# SEC. 6.106. TREASURER.

The Treasurer shall be responsible for the collection of taxes, the receipt of all monies collected by the City and County and their safeguard, deposit and investment in accordance with sound financial practices, and shall be responsible for collection

San Francisco Charter Section 6.106

of delinquent revenue. The Treasurer shall appoint a Chief Assistant and a Tax Collector who shall serve at the pleasure of the Treasurer.

## SEC. 6.107. VACANCIES.

If the position of Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff or Treasurer shall become vacant because of death, resignation, permanent disability, or the inability of the respective officer to otherwise carry out the responsibilities of the office, the Mayor shall appoint an individual qualified under this Charter and state laws. Should more than 29 months remain in the unexpired term, the appointee shall serve until the next general municipal or statewide election occurring not less than 120 days after the appointment, at which time an election shall be held to fill the unexpired term.



San Francisco Charter Section 7.100

#### ARTICLE VII

## JUDICIAL BRANCH

# SEC. 7.100. SUPERIOR AND MUNICIPAL COURTS.

The powers and duties of the Superior and Municipal Courts are as prescribed by state law.

Any fees required to be collected by the Superior Court, Municipal Court or the Clerks of such Courts shall be deposited into the treasury of the City and County and distributed therefrom as provided for by state law.

## SEC. 7.101. ADULT PROBATION.

Adult probation is a county function which is prescribed by state law. The Superior Court shall appoint the Chief Adult Probation Officer. The Chief Adult Probation Officer shall appoint such assistants, deputies and employees as may be allowed or provided by the Board of Supervisors.

The Chief Adult Probation Officer, and his or her assistants and deputies, shall have the powers and duties conferred upon such adult probation officers, assistants and deputies by state laws; and such additional duties as may be prescribed by ordinances of the Board of Supervisors.

# SEC. 7.102. JUVENILE PROBATION.

The Juvenile Probation Commission shall consist of seven members who shall be appointed by the Mayor, pursuant to Section 3.100, for staggered four-year terms. Two of the members shall be appointed from lists of eligibles submitted to the Mayor by the Superior Court. The Juvenile Probation Department shall be a part of the executive branch.

Members may be removed by the Mayor only pursuant to Section 15.105.

Any member may serve concurrently as a member of the Juvenile Justice Commission created by state law and as a member of the Juvenile Probation Commission herein created.

The Chief Juvenile Probation Officer, assistants and deputies shall have the powers and duties conferred upon such Chief Juvenile Probation Officers, assistants and deputies by state law; and they shall perform all of the duties prescribed by such laws, and such additional duties as may be prescribed by ordinances of the Board of Supervisors.



## ARTICLE VIII

# **EDUCATION AND LIBRARIES**

# SEC. 8.100. UNIFIED SCHOOL DISTRICT.

The Unified School District shall be under the control and management of a Board of Education composed of seven members who shall be elected by the voters of the Unified School District. A student representative shall serve on the Board in accordance with state law. No member of this Board shall be eligible to serve on the Governing Board of the Community College District. Vacancies occurring on the Board shall be filled for the unexpired term by the Mayor. The compensation for each member shall be \$500 per month. The terms of office in effect for Board members on the date this Charter is adopted shall continue.

# SEC. 8.101. GOVERNING BOARD OF THE COMMUNITY COLLEGE DISTRICT.

The Community College District shall be under the control and management of a Governing Board composed of seven members who shall be elected by the voters of the Community College District. A student representative shall serve on the Governing Board in accordance with state law. No member of this Board shall be eligible to serve on the Board of Education. Vacancies occurring on the Governing Board shall be filled for the unexpired term by the Mayor. The compensation for each member shall be \$500 per month. The terms of office in effect for Board members on the date this Charter is adopted shall continue.

# SEC. 8.102. PUBLIC LIBRARIES.

Libraries including the Library Commission and the Library Department shall be a part of the executive branch.

The Commission shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

#### SEC. 8.103. LAW LIBRARY.

The San Francisco Law Library shall be under the management and control of the Board of Trustees, as established by act of the Legislature approved March 9, 1870. The Board shall consist of seven appointive members of the San Francisco bar, and the Mayor, the Presiding Judge and the three judges of the Appellate Department of the Superior Court, ex-officio. All vacancies on the Board shall be filled by the Board.

Pursuant to state law, the Board shall appoint and at its pleasure may remove a librarian, who shall be its executive officer. The Board shall have complete authority to manage its affairs consistent with this Charter and state law.

Compensation of Law Library personnel shall be fixed by the executive officer of the Law Library, with approval of the Board of Trustees. Subject to the budgetary and fiscal provisions of this Charter, the City and County shall continue to fund the salaries for at least the positions of Librarian, Assistant Librarian and Bookbinder.

The City and County shall provide suitable and sufficient quarters for the Law Library, fix up and furnish the same and provide for the supply of necessary light, heat, stationery and other conveniences. The Library shall be so located as to be readily accessible to the judges and officers of the courts.

The Clerks of the Superior and Municipal Courts shall collect fees provided for law libraries by general law and the fees so collected shall be paid monthly to the Treasurer of the Law Library, and shall constitute a law library fund to be expended by the Trustees in the purchase of books and periodicals, and in the establishment and maintenance of the Law Library.

The judiciary, city, county and state officials, members of the Bar, and all inhabitants of the City and County shall have free access, use and enjoyment of the Law Library, subject to the rules and regulations of the Trustees.

## ARTICLE IX

#### FINANCIAL PROVISIONS

# SEC. 9.100. BUDGET PROCESS ORDINANCES.

The fiscal year for the City and County shall commence on the first day of July of each year and shall end on the last day of June of the next succeeding year. On or before June 30 of each year, the Board of Supervisors shall, except for equipment and capital improvements, enact an interim appropriation ordinance and not earlier than the 15th day of July, nor later than the first of August of each year, the Board of Supervisors shall adopt the proposed budget as submitted or amended and shall adopt the annual appropriation ordinance accordingly, which shall supersede the interim appropriation ordinance.

The Mayor shall submit and the Board of Supervisors shall act on ordinances with respect to the following:

- 1. A schedule and procedures for the orderly preparation and submission of the annual proposed budget and for the review and adoption of the necessary interim and final appropriations ordinances;
- 2. A description of the form of the annual proposed budget and appropriation ordinance consistent with the financial records required by Section 3.105 of this Charter and containing information relating the type and extent of services to be delivered or revenues to be generated to proposed expenditures in a manner which, to the extent feasible, allows comparison of revenue trends as well as expected performance and expenditures between various fiscal years;
- 3. A procedure to include public participation in the budgetary process which shall include public hearings conducted by the commissions, Mayor and the Board of Supervisors; and
- 4. The form, content and dates of submission of the City's Capital Improvements and Facilities Maintenance Budgets. The ordinance relating to Capital Improvement and Facilities Maintenance shall minimally:
  - (a) Require that such budgets be prepared for more than a single year;
- (b) Clearly establish distinctions between major, long term construction, replacement and acquisition projects (Capital Improvements) and short term repair, minor replacement and maintenance projects (Facilities Maintenance);
- (c) Be consistent as to the date of submission with the time requirements established for the submission of the budget and appropriation ordinance; and
- (d) Provide information regarding the estimated completion schedule for Capital Improvements, the funding source for each and the estimated annual operating costs thereof.

# SEC. 9.101. PROPOSED ANNUAL AND MULTI-YEAR BUDGETS.

The Mayor shall submit to the Board of Supervisors each year an annual proposed budget, ordinances and resolutions fixing wages and benefits for all classifications and related appropriation ordinances.

The annual proposed budget shall include:

1. Estimated revenues and surpluses from whatever sources, to the extent feasible, for the forthcoming fiscal year and the allocation of such revenues and

surpluses to various departments, functions and programs to support expenditures. Proposed expenditures may include such necessary and prudent reserves as recommended by the Controller; and

2. A summary of the annual proposed budget with a narrative description of priorities, services to be provided and economic assumptions used in preparing the revenue estimates. The summary shall also contain a discussion of trends and projections of revenues and expenditures of the City and County for the subsequent four years.

The annual proposed budget and appropriation ordinances shall be balanced so that the proposed expenditures of each fund do not exceed the estimated revenues and surpluses of that fund. If the proposed budget contains new revenue or fees, the Mayor shall submit to the Board of Supervisors the relevant implementing ordinances at the same time the annual budget is submitted.

Until the appropriation ordinances are adopted by the Board of Supervisors, the Mayor may submit to the Board of Supervisors revisions to the annual proposed budget, appropriation ordinances, and ordinances and resolutions fixing wages and benefits.

The Mayor may instruct the Controller to prepare the draft appropriation ordinances.

The Mayor shall file a copy of the annual proposed budget at the Main Library and shall give notice of the budget summary, including making copies available to the public. Upon final approval of the budget by both the Board and the Mayor, notice shall be given of the final budget summary.

The Board of Supervisors by ordinance may require multi-year budget plans and other budget planning strategies to be performed by the several departments and offices of the City and County.

# SEC. 9.102. CERTIFICATION OF REVENUE ESTIMATES.

The Mayor shall submit to the Controller for review the estimated revenues contained in the annual proposed budget and any subsequent revisions. The Controller shall then provide the Board of Supervisors with an opinion regarding the accuracy of economic assumptions underlying the revenue estimates and the reasonableness of such estimates and revisions.

# SEC. 9.103. ADOPTION OF APPROPRIATION ORDINANCES.

The Board of Supervisors may amend the annual proposed budget and appropriation ordinances as follows:

- 1. After review of the Controller's analysis of the Mayor's revenue estimates, the Board of Supervisors may reduce estimated revenues;
- 2. The Board of Supervisors may increase or decrease any proposed expenditure in the General Fund or any special, sequestered or other fund so long as the aggregate changes do not cause the expenditures from each fund to exceed the amount proposed for expenditures by the Mayor from any such fund; and
- 3. The Board of Supervisors may increase or decrease any proposed expenditure for Capital Improvements.

San Francisco Charter Section 9.104

# SEC. 9.104. VETO OF APPROPRIATIONS.

The Mayor may reduce or reject any expenditure authorized by the Board of Supervisors, except appropriations for bond interest, redemption or other fixed charges, within ten days after the adoption of a final annual or supplemental appropriations ordinance. Within ten days of receipt of the Mayor's veto message, the Board of Supervisors may reinstate, in whole or in part, any expenditure reduced or rejected by the Mayor by a vote of two-thirds of its members. In overriding any Mayoral veto, the Board of Supervisors shall not cause the aggregate expenditures for the General Fund or any special, sequestered or other fund in the appropriation ordinances to exceed the Mayor's revenue estimate as allocated to such funds.

# SEC. 9.105. MODIFICATIONS.

The Board of Supervisors may authorize the Controller, upon the request of the Mayor, other officials, boards or commissions of the City and County to transfer previously appropriated amounts within the same fund within the same governmental unit without approval of the Board of Supervisors.

Amendments to the appropriations ordinance, as finally adopted, may be initiated by the Mayor or a member of the Board of Supervisors and adopted in the same manner as other ordinances. No amendment to the appropriations ordinance may be adopted unless the Controller certifies availability of funds.

Any appropriation contained in an emergency ordinance shall be deemed to be an amendment to the final appropriations ordinance.

## SEC. 9.106. GENERAL OBLIGATION BONDS.

The Board of Supervisors is hereby authorized to provide for the issuance of general obligation bonds in accordance with the Constitution of the State of California. General obligation bonds may be issued and sold in accordance with state law or any local procedure adopted by ordinance. There shall be a limit on outstanding general obligation bond indebtedness of three percent of the assessed value of all taxable real and personal property, located within the City and County.

## SEC. 9.107. REVENUE BONDS.

The Board of Supervisors is hereby authorized to provide for the issuance of revenue bonds. Revenue bonds shall be issued only with the assent of a majority of the voters upon any proposition for the issuance of revenue bonds, except that no voter approval shall be required with respect to revenue bonds:

- 1. Approved by three-fourths of all the Board of Supervisors if the bonds are to finance buildings, fixtures or equipment which are deemed necessary by the Board of Supervisors to comply with an order of a duly constituted stare or federal authority having jurisdiction over the subject matter;
  - 2. Approved by the Board of Supervisors prior to January 1, 1977;
- 3. Approved by the Board of Supervisors if the bonds are to establish a fund for the purpose of financing or refinancing for acquisition, construction or rehabilitation of housing in the City and County;
- 4. Authorized and issued by the Port Commission for any Port-related purpose and secured solely by Port revenues, or authorized and issued for any Airport-related purpose and secured solely by Airport revenues;

5. Issued for the proposes of assisting private parties and not-for-profit entities in the financing and refinancing of the acquisition, construction, reconstruction or equipping of any improvement for industrial, manufacturing, research and development, commercial and energy uses or other facilities and activities incidental thereto, provided the bonds are not secured or payable from any monies of the City and County or its commissions.

6. Issued for the purpose of the reconstruction or replacement of existing water facilities or electric power facilities or combinations of water and electric power facilities under the jurisdiction of the Public Utilities Commission, when authorized by resolution adopted by a three-fourths affirmative vote of all members of the Board

of Supervisors.

7. Approved and authorized by the Board of Supervisors and secured solely by an assessment imposed by the City.

Except as expressly provided in this Charter, all revenue bonds may be issued and sold in accordance with state law or any procedure provided for by ordinance.

# SEC. 9.108. LEASE FINANCING.

The City and County may enter into lease financing agreements only with the assent of the majority of the voters voting upon any proposition for the authorization of the lease financing. As used in this section, lease financing shall mean any lease or sublease made between the City and County and any public agency or authority, a non-profit corporation or a retirement system for the purpose of financing the acquisition, construction or improvement by the City and County of real property or equipment.

The requirements of this section do not apply to:

1. Any lease financing which was approved in fact or in principle by a resolution or ordinance adopted by the Board of Supervisors prior to April 1, 1977; provided, that if the resolution or ordinance approved the lease financing only in principle, the resolution or ordinance must describe in general terms the public improvements or equipment to be financed; or

2. The amendment or the refunding of a lease financing which is expected to result in net savings in rental payments to the City and County on a present value

basis, calculated as provided by ordinance; or

3. Lease financing involving a nonprofit corporation established for the purpose of this subsection for the acquisition of equipment, the obligations or evidence of indebtedness with respect to which shall not exceed in the aggregate at any point in time a principle amount of \$20 million, such amount to be increased by five percent each fiscal year commencing with fiscal year 1990-1991; provided, however, that prior to each sale of such obligations or evidence of indebtedness, the Controller certifies that in his or her opinion the net interest cost to the City will be lower than other financings involving a lease or leases.

# SEC. 9.109. REFUNDING BONDS.

The Board of Supervisors is hereby authorized to provide for the issuance of bonds of the City and County for the purpose of refunding any general obligation or revenue bonds of the City and County then outstanding. No voter approval shall be required for the authorization, issuance and sale of refunding bonds, which are

San Francisco Charter Section 9.109

expected to result in net debt service savings to the City and County on a present value basis, calculated as provided by ordinance.

## SEC. 9.110. BOND ELECTION BY INITIATIVE.

Proceedings for the authorization and issuance of bonds for the acquisition, construction or completion of any public utility or utilities may be initiated by electors in the following manner: Whenever a petition, signed by qualified electors of the City and County equal in number to at least fifteen percent of the votes cast for all candidates for Mayor at the last proceeding general municipal election for Mayor, requesting the Board of Supervisors to submit to the voters of the City and County a proposition or propositions for incurring bonded indebtedness for the acquisition, construction or completion of any public utility or utilities shall be filed with the director of elections, the Board of Supervisors shall submit to the voters the proposition or propositions for incurring bonded indebtedness of the City and County for purpose or purposes set forth in that petition at the next general municipal, statewide or special municipal election.

# SEC. 9.111. GENERAL AUTHORITY.

Except as otherwise expressly provided in this Charter, the City and County and its commissions shall have the authority to incur and refund indebtedness as provided by and pursuant to the general laws of the state as such laws are in force at the time any bonded indebtedness is created or refunded by the City and County or its commissions. The Controller certifications required by Sections 3.105 and 9.113 shall not apply to bonded indebtedness, financing leases or agreements for an exchange of payments based upon interest rates which are entered into in connection with bonded indebtedness or financing leases, provided that the Controller first certifies that sufficient unencumbered balances are expected to be available in the proper fund to meet all payments under such obligations as they become due.

#### SEC. 9.112. REVENUE BONDS OF THE PORT COMMISSION.

The Port Commission shall have the exclusive power to perform or accomplish issuance of revenue bonds for Port-related purposes, as provided in Section B7.305 of this Charter.

## SEC. 9.113. CASH RESERVES.

Unused and unencumbered appropriations or unencumbered balances existing at the close of any fiscal year in revenue or expense appropriations of the City and County for any such fiscal year, but exclusive of revenue or money required by law to be held in school, bond, bond interest, bond redemption, pension, trust, utility or other specific funds, or to be devoted exclusively to specified purposes other than annual appropriations, and together with revenues collected or accruing from any source during such fiscal year, in excess of the estimated revenue from such source as shown by the annual budget and the appropriation ordinance for such fiscal year, shall be transferred by the Controller, at the closing of such fiscal year, to a "Cash Reserve Fund" which may be used only in the manner authorized by Section 6.304 of the Charter of 1932, including the transfer provisions, as codified in the Administrative Code; provided, however, that when the balance in the Cash Reserve Fund equals ten per cent of the current or the last preceding tax levy no such transfer shall

be made except on the recommendation of the Controller, the approval of the Mayor and the authorization of the Board of Supervisors.

Such unused and unencumbered appropriations, balance and revenue collections in excess of revenue estimates, as defined in this section when not transferred to the Cash Reserve Fund as hereinbefore in this section required or authorized, shall be held as surplus.

Such surplus shall be taken into account as revenue of the ensuing fiscal year; provided, however, that any such surplus created or existing in any fiscal year may be appropriated by the Board of Supervisors by means of an ordinance designated as

a supplemental appropriation ordinance.

In the event the Mayor or a member of the Board of Supervisors recommends a supplemental appropriation ordinance after the adoption of the budget for any fiscal year and prior to the close of the fiscal year containing any item which had been rejected by the Mayor in his/her review of departmental budget estimates for the fiscal year or which had been rejected by the Board of Supervisors in its consideration of the Mayor's proposed budget for the fiscal year, it shall require a vote of two-thirds of all members of the Board of Supervisors to approve such supplemental appropriation ordinance.

No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the Board of Supervisors unless the Controller first certifies to the Board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the Controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditures will be available in the treasury in sufficient amount to meet the same as it becomes due.

The Board of Supervisors shall have the power to borrow money by the issuance of tax anticipation notes, temporary notes, commercial paper, or any other short-term debt instruments in the manner provided by state law or City ordinance.

## SEC. 9.114. MISSION-DRIVEN BUDGET.

Each departmental budget shall describe each proposed activity of that department and the cost of that activity. In addition, each department shall provide the Mayor and the Board of Supervisors with the following details regarding its budget:

1. The overall mission and goals of the department;

2. The specific programs and activities conducted by the department to accomplish its mission and goals;

3. The customer(s) or client(s) served by the department;

4. The service outcome desired by the customer(s) or client(s) of the department's programs and activities;

5. Strategic plans that guide each program or activity;

6. Productivity goals that measure progress toward strategic plans;

7. The total cost of carrying out each program or activity; and

8. The extent to which the department achieved, exceeded or failed to meet its missions, goals, productivity objectives, service objectives, strategic plans and spending constraints identified in subsections (1) through (6) during the prior year.

Departmental budget estimates shall be prepared in such form as the Controller,

after consulting with the Mayor, directs in writing.

# SEC. 9.115. DEPARTMENTAL BUDGET COMMITMENTS.

It shall be the duty of each officer, department head, board or commission ultimately responsible for the management of each department to certify to the Mayor and the Board of Supervisors his/her commitment to perform the programs and activities with specified levels of performance for specified costs as outlined in the budget description and other information required by Section 9.114.

# SEC. 9.116. DEPARTMENTAL SAVINGS AND REVENUE GAINS.

Within 30 days of the Controller's issuance of the combined annual financial report of the City and County, the Controller shall report to the Mayor and Board of Supervisors regarding the extent to which each department in the prior fiscal year has recovered additional revenues measured by the difference between projected and experienced revenues. It shall be City policy for the Mayor and Board of Supervisors, upon receipt of this report, through the supplemental appropriations process to give serious consideration to rewarding those departments that the Controller has certified pursuant to this section exceeded their revenue goals or met or exceeded departmental operational goals expending less than has been projected in the budget.

# SEC. 9.117. ESTABLISHMENT OF AUDIT COMMITTEE OF THE BOARD OF SUPERVISORS.

On or before the operative date of this Charter and until this requirement is changed by the Board of Supervisors, the Board of Supervisors shall establish through its rules an Audit Committee.

The Audit Committee shall:

- 1. Maintain a direct and separate line of communication between the Board of Supervisors and the City and County's independent auditor;
- 2. Meet with the independent auditor to review the audited annual financial statement and the auditor's report on such matters as the quality and depth of management and compliance;
- 3. Recommend appropriate action to be taken by the Board of Supervisors to implement recommendations contained in the audit report;
- 4. Follow up, as necessary, to ensure that approved recommendations are promptly implemented; and
  - 5. Perform other duties as assigned by the Board of Supervisors.

# SEC. 9.118. CONTRACT AND LEASE LIMITATIONS.

- (a) Unless otherwise provided for in this Charter, contracts entered into by a department, board or commission having anticipated revenue to the City and County of one million dollars or more, or the modification, amendment or termination of any contract which when entered into had anticipated revenue of one million dollars or more, shall be subject to approval of the Board of Supervisors by resolution.
- (b) Unless otherwise provided for in this Charter, and with the exception of construction contracts entered into by the City and County, any other contracts or agreements entered into by a department, board or commission having a term in excess of ten years, or requiring anticipated expenditures by the City and County of ten million dollars, or the modification or amendments to such contract or agreement having an impact of more than \$500,000 shall be subject to approval of the Board of Supervisors by resolution.

CH-53 (3-98)

Section 9.118 San Francisco Charter

(c) Unless otherwise provided for in this Charter, any lease of real property for a period of ten or more years, including options to renew, or having anticipated revenue to the City and County of one million dollars or more; the modification, amendment or termination of any lease, which when entered into was for a period of ten or more years, including options to renew, or had anticipated revenue to the City and County of one million dollars or more; and any sale or other transfer of real property owned by the City and County, shall first be approved by resolution of the Board of Supervisors. Leases of property under the jurisdiction of the Port Commission for maritime use shall be exempt from the requirements of this section. (Amended November 1997)

(3-98) CH-54

San Francisco Charter Section 10.100

## ARTICLE X

## PERSONNEL ADMINISTRATION

## SEC. 10.100. CIVIL SERVICE COMMISSION.

There is hereby established a Civil Service Commission which is charged with the duty of providing qualified persons for appointment to the service of the City and County.

The Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for six-year terms. Not less than two members of the Commission shall be women.

The persons so appointed shall, before taking office, make under oath and file in the office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the office of Civil Service Commissioner in the spirit of this declaration."

A commissioner may be removed only upon charges preferred in the same manner as in this Charter provided for elective officers.

The regular meetings of the Commission shall be open to the public and held at such a time as will give the general public and employees of the City and County adequate time within which to appear before the Commission after the regular daily working hours of 8:00 a.m. to 5:00 p.m. Such person or persons shall be given an opportunity to be heard by the Commission before final action is taken in any case involving such person or persons.

#### SEC. 10.101. GENERAL POWERS AND DUTIES.

The Civil Service Commission shall adopt rules, policies and procedures to carry out the civil service merit system provisions of this charter and, except as otherwise provided in this Charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; leaves of absence for employees and officers; appointments; promotions; transfers; resignations; lay-offs or reduction in force, both permanent and temporary, due to lack of work or funds, retrenchment or completion of work; the designation and filling of positions, as exempt, temporary, provisional, part-time, seasonal or permanent; status and status rights; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations, except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; classification; conflict of interest; and such other matters as are not in conflict with this Charter; provided, however, that the minimum rule for the certification of eligibles shall be the Rule of Three Scores, and provided further that rules for leave due to illness or disability shall be approved by the Board of Supervisors. Changes to the rules may be proposed by members of the Commission, the Executive Assistant or the Human Resources Director and approved or rejected by the Commission. The Commission may, upon ten days' notice, make changes in the rules, which changes shall thereupon be printed and be in force; provided that no such changes in rules shall affect a case pending before the Commission.

The Commission shall have power to institute and prosecute legal proceedings for violations of any civil service merit system or Department of Human Resources provisions of this Charter.

The Commission shall establish an inspection service for the purpose of investigating the conduct or an action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the Commission in making its investigations and any person hindering the Commission or its agents shall be subject to suspension.

The Commission shall by rule establish procedures to review and resolve allegations of discrimination as defined in Article XVII of this Charter or otherwise prohibited nepotism or favoritism appealed to it pursuant to this section. The determination reached under Commission procedures shall be final and shall forthwith be enforced by every employee and officer.

The Commission shall have the power to inquire into the operation of the civil service merit system to ensure compliance with merit principles and rules established by the Commission. After such inquiry, the Commission may direct the Human Resources Director to take such action as the Commission believes necessary to carry out the civil service provisions of this Charter. In any hearing conducted by the Commission or by any hearing officer it appoints pursuant to this section, the Commission or the hearing officer shall have the power to subpoena and require the attendance of witnesses and the production of records.

The Commission may require periodic reports from the Human Resources Director in a manner and form which it shall prescribe.

The Commission may hear appeals from an action of the Human Resources Director in accordance with its rules, including but not limited to:

- 1. Allegations of discrimination as defined in Article XVII of this Charter. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Commission regarding allegations of discrimination shall forthwith be enforced by every officer and employee;
  - 2. Allegations of fraud; and
  - 3. Allegations of conflict of interest.

No action by the Human Resources Director which is the subject of any appeal shall be stayed during the appeal process except by a majority vote of the Civil Service Commission.

The Commission shall have the power and it shall be its duty to appoint an executive assistant to be the administrative head of the affairs under its control who shall serve at its pleasure; provided, however, that any person who has Civil Service status in the position of executive assistant to the Commission on the effective date of this section as amended shall continue to have Civil Service status in the position of executive assistant under the Civil Service provisions of this Charter. The executive assistant shall periodically report to the Commission on operation of the civil service merit system and may make recommendations to the Civil Service Commission regarding its rules, policies and procedures.

## SEC. 10.102. DEPARTMENT OF HUMAN RESOURCES.

The Department of Human Resources shall consist of a Human Resources Director and such employees as may be necessary to carry out its functions and duties.

San Francisco Charter Section 10.102

Pursuant to and in accordance with policies, rules and procedures of the Civil Services Commission governing the merit system, the Department of Human Resources shall be the personnel department for the City and County and shall determine appointments on the basis of merit and fitness as shown by appropriate test and, except as specifically set forth in this Charter, shall perform all tests, duties and functions previously performed by the Civil Service Commission, including but not limited to authority to recruit, select, certify, appoint, train, evaluate, promote career development, classify positions, administer salaries, administer employee discipline, discharge and other related personnel activities in order to maintain an effective and responsive work force.

The Department of Human Resources shall be responsible for coordination of all state, local and federal health and safety mandates, programs and requirements relating to employees including but not limited to industrial hygiene programs, health and safety programs, OSHA compliance and return to work programs. Department heads shall coordinate such activities of employees under their jurisdiction with the Human Resources Director.

The Department of Human Resources shall be responsible for policy, management and administration of the worker's compensation program and shall review and determine all applications for disability leave.

Subject to Section 11.100 hereof, the Department of Human Resources shall be responsible for management and administration of all labor relations of the City and County.

The Department of Human Resources shall be responsible for management and administration of all health services of employees. The transfer of such power and control to the Department of Human Resources shall occur no later than October 1, 1995.

Except for the purpose of inquiry, the Mayor shall deal with the administration of the civil service merit system solely through the Human Resources Director and the Civil Service Commission or their designees. The Mayor shall not dictate, suggest or interfere with the merit system activities of the Civil Service Commission or Human Resources Department. Administrative matters shall be dealt with only in the manner provided by this Charter, and any dictation, suggestion or interference herein prohibited shall constitute official misconduct; provided that nothing herein contained shall restrict the power of hearing and inquiry as provided in this Charter.

#### SEC. 10.103. HUMAN RESOURCES DIRECTOR.

A Human Resources Director shall be selected by the Mayor from candidates nominated by the Civil Service Commission and confirmed by vote of the Board of Supervisors. The Human Resources Director shall possess not less than ten years professional experience in personnel, human resources management, labor or employee relations at least five years of which must be in federal, state or local governmental personnel management and such other qualifications as determined by the Commission. Notwithstanding any other provisions of this Charter, the Human Resources Director shall be appointed by and serve at the pleasure of the Mayor, provided that the Mayor's removal of the Human Resources Director may be rejected by a four-fifths vote of the Commission. Failure of the Commission to act within 30 days shall be deemed approval of the Mayor's action. The nominee of the Mayor may be appointed acting Human Resources Director pending confirmation. The person so

appointed shall, before taking office, make under oath and file in the Office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the Office of Human Resources Director in the spirit of this declaration."

The appointment of the Director of the Human Resources Department as of the effective date of this Charter shall be effective until July 1, 1996, after which time he may be reappointed to the position in accordance with the appointment method provided herein.

The Human Resources Director shall have full power to administer the affairs of the Department. He or she shall have all powers of a department head and may appoint a Director of Employee Relations, a Health Services administrator, an executive assistant and one confidential secretary, each of whom shall be exempt from the civil service provisions of this Charter, to assist in the administration and management of the functions of the department.

The Human Resources Director shall review and resolve allegations of discrimination as defined in Article XVII of this Charter against employees or applicants, or otherwise prohibited nepotism or favoritism. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Human Resources Director shall forthwith be enforced by every employee and officer, unless the decision is appealed to the Commission in accordance with Section 10.101.

The Human Resources Director shall investigate all employee complaints concerning job-related conduct of City and County employees and shall promptly report to the source of the complaint.

The Human Resources Director shall promote effective and efficient management through personnel programs that encourage productivity, job satisfaction and exemplary performance.

The Human Resources Director shall provide a procedure for resolution of employee disputes which shall be consistent with other provisions of this Charter and shall be utilized by all department heads and appointing officers in the absence of an applicable grievance procedure in a binding labor agreement.

The Human Resources Director shall verify that all persons whose names appear on City and County payrolls have been legally appointed to or employed in positions legally established under this Charter. The Controller shall not draw his or her warrant for any claim for salary, wages or compensation which has been disapproved by the Human Resources Director.

Consistent with the foregoing and other applicable provisions of this Charter, the Human Resources Director may delegate to the various appointing officers appropriate personnel responsibilities, and shall consult with appointing officers with respect to Civil Service Commission rules affecting their operations.

The Human Resources Director shall establish a system of job classification. The decision of the Human Resources Director regarding classification matters shall be final unless appealed to the Commission; provided, however, that nothing herein shall be construed to alter the scope of bargaining set forth in the following sections of the 1932 Charter: 8.400, 8.403, 8.404, 8.405, 8.407-1, 8.409 et seq. and 8.590-1 et seq.

The allocation or reallocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position. No person shall hold a position outside of the classification to which the person has been appointed,

San Francisco Charter Section 10.103

provided that every employee of any department or office shall discharge any of the duties pertaining to such department or office to which the employee's department head may temporarily assign the employee.

## SEC. 10.104. EXCLUSIONS FROM CIVIL SERVICE APPOINTMENT.

All employees of the City and County shall be appointed through competitive examination unless exempted by this Charter. The following positions shall be exempt from competitive civil service selection, appointment and removal procedures, and the person serving in the position shall serve at the pleasure of the appointing authority:

- 1. All supervisory and policy-level positions within the office of the Mayor and the office of the City Administrator;
- 2. All elected officers of the City and County and their chief deputies or chief assistants;
  - 3. All members of commissions, boards and advisory committees;
  - 4. Not more than one commission secretary for each commission or board;
- 5. All heads of agencies and departments, unless otherwise provided for herein;
  - 6. All non-uniformed deputy heads of departments;
- 7. All uniformed deputy heads of departments, police commanders and Fire Chiefs aides;
- 8. Not move than one confidential secretary and executive assistant in each department and agency;
- 9. The Clerk of the Board of Supervisors, legislative analyst and assistants to the members of the Board of Supervisors.
- 10. All paraprofessional aides of the Unified School District and teaching instructional aides of the Community College District;
- 11. Persons employed in positions outside the City and County upon construction work being performed by the City and County when such positions are exempted from the classified civil service by an order of the civil service commission;
- 12. Persons employed in positions in any department for expert professional temporary services, when such positions are exempted from said classified civil service for a specified period of said temporary service by order of the civil service commission.

The proportion of full-time employees in the above exempt categories to the total number of civil service employees of the City and County shall not be greater than such proportion as existed on July 1, 1994, unless modified by Civil Service Commission rule, approved by the Board of Supervisors.

- 13. All attorneys, including an attorney to the Sheriff and an attorney for the Tax Collector, City Attorney's and District Attorney's investigators, hospital chief administrators, physicians and dentists serving in their professional capacity (except those physicians and dentists whose duties are significantly administrative or supervisory);
- 14. The law librarian, assistant law librarians, bookbinder of the Law Library, purchaser, curators, Assistant Sheriff, Deputy Port Director, Chief of the Bureau of Maritime Affairs, Director of Administration and Finance of the Port, Port Sales Manager, Port Traffic Manager, Chief Wharfinger, Port Commercial Property Manager, Actuary of the Employee's Retirement System, Director of the Zoo, Chief

Veterinarian of the Zoo, Director of the Arboretum and Botanical Garden, Director of Employee Relations, Health Service Administrator, Executive Assistant to the Human Services Director, and any other positions designated as exempt under the 1932 Charter, as amended;

15. Positions determined by the Controller and approved annually by the Board of Supervisors to be positions where the work or services can be practically performed under private contract at a lesser cost than similar work performed by employees of the City and County, except where such work or services are required to be performed by officers or employees of the City and County under the provisions of this Charter or other applicable law.

In addition, with the approval of the Civil Service Commission, exempt employees shall include:

- 16. Temporary and seasonal appointments not to exceed the equivalent of halftime during any fiscal year, except that such positions may be filled through regular civil service procedures;
- 17. Appointments, which shall not exceed two years and shall not be renewable, as substitutes for civil service employees on leave, except that such positions may be filled through regular Civil Service procedures;
- 18. Appointments, which shall not exceed three years and shall not be renewable, for special projects and professional services with limited term funding, except that such positions may be filled through regular civil service procedures; and
- 19. Entry level positions designated by an appointing officer with approval of the Civil Service Commission for persons who met minimum qualifications and are certified as blind or severely disabled; persons so appointed whose job performance is rated satisfactory by their appointing officer shall after one year of continuous service acquire Civil Service status.

#### SEC. 10.105. PROVISIONAL APPOINTMENTS.

Provisional appointments for classified positions for which no eligible list exists shall not exceed three years. Provisional appointments may only be renewed with the approval of the Board of Supervisors and upon certification by the Human Resources Director that for reasons beyond his or her control the Department has been unable to conduct examinations for these positions.

#### ARTICLE XI

### **EMPLOYER-EMPLOYEE RELATIONS SYSTEM**

## SEC. 11.100. GENERAL.

Subject to this Charter and consistent with state law, the Mayor through the Human Resources Director or his/her designee and in consultation with the Board of Supervisors shall be responsible for meeting and conferring with employees or their recognized employee organizations regarding salaries, working conditions, benefits and other terms and conditions of employment to be embodied in memoranda of understanding. The Human Resources Director shall assume day-to-day administration of all labor relations responsibilities previously vested in the Mayor or Board of Supervisors.

The Human Resources Director shall submit proposed memoranda of understanding including, where applicable, schedules of compensation, benefits and working conditions to the Mayor, who upon approval shall forward the proposed memoranda of understanding to the Board of Supervisors for determination by a majority vote. The Board of Supervisors shall have the power to accept or reject such memoranda of understanding. It shall be the duty of the Board of Supervisors, upon approval of any such memoranda of understanding to enact appropriate ordinances authorizing payment of any compensation or benefits or other terms and conditions of employment so approved.

Nothing in this section shall supersede any dates specified in this Charter for fixing compensation, except that the Board of Supervisors by motion may extend up to 30 days the date for final adoption of ordinances approving salary and benefits pursuant to such sections. Should the Board of Supervisors reject any memorandum of understanding and/or schedule of compensation and benefits, the Board of Supervisors shall by motion simultaneously extend by 60 days the date for final adoption of ordinances approving salary, benefits and/or working conditions pursuant to such sections.

## SEC. 11.101. EMPLOYEE RELATIONS OFFICE.

The Human Resources Director shall:

- 1. Represent the City and County and/or its departments in the implementation of those provisions of Title I, Division 4, Chapter 10 of the Government Code applicable to the City and County, subject to the Mayor's authority under Charter Section 11.100:
- 2. Coordinate the meet and confer process between the City and County, its employees and/or their designated representatives;
  - 3. Negotiate and administer memoranda of understanding; and
- 4. Perform related duties necessary to administer the employee relations functions of the City and County.

San Francisco Charter Section 12.100

## ARTICLE XII

## EMPLOYEE RETIREMENT AND HEALTH SERVICE SYSTEMS

## SEC. 12.100. RETIREMENT BOARD.

The Retirement Board shall consist of seven members as follows: one member of the Board of Supervisors appointed by the President, three public members to be appointed by the Mayor pursuant to Section 3.100, and three members elected by the active members and retired persons of the Retirement System from among their number. The public members appointed by the Mayor shall be experienced in life insurance, actuarial science, employee pension planning or investment portfolio management, or hold a degree of doctor of medicine. There shall not be, at any one time, more than one retired person on the Board. The term of the members, other than the Board of Supervisors member, shall be five years, one term expiring on February 20th of each year. The three elected members need not be residents of the City and County. Vacancies on the Board shall be filled by the Mayor for the remainder of the unexpired term, except that in the case of elected employee members, a vacancy shall be filled by a special election within 120 days after the vacancy occurs unless the next regularly scheduled employee member election is to be held within six months after such vacancy occurred. Elections shall be conducted by the Director of Elections in a manner prescribed by ordinance.

The Board shall appoint and may remove an executive director and an actuary. The Board may employ a consulting actuary.

In accordance with Article XVI, Section 17, of the California Constitution, the Retirement Board shall have plenary authority and fiduciary responsibility for investment of monies and administration of the Retirement System.

The Board shall be the sole authority and judge, consistent with this Charter and ordinances, as to the conditions under which members of the Retirement System may receive and may continue to receive benefits under the Retirement System, and shall have exclusive control of the administration and investment of such funds as may be established.

The Retirement Board shall discharge its duties with respect to the system with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

The Board shall determine City and County and District contributions on the basis of a normal contribution rate which shall be computed as a level percentage of compensation which, when applied to the future compensation of the average new member entering the System, together with the required member contribution, will be sufficient to provide for the payment of all prospective benefits of such member. The portion of liability not provided by the normal contribution rate shall be amortized over a period not to exceed twenty years.

The Board may act by a majority of the members present at a meeting so long as a quorum is in attendance.

CH-63 (9-%)

## SEC. 12.101. EXECUTIVE DIRECTOR.

The executive director shall administer the Retirement System in accordance with the provisions of this Charter and the policies and regulations of the Retirement Board.

#### SEC. 12.102. HEARING OFFICER.

Any application for retirement or death allowance made pursuant to this Charter shall be heard by a hearing officer employed under contract by the Retirement Board and selected by procedures set forth in its rules, which shall include rules setting forth the qualifications and selection procedure necessary to appoint a qualified and unbiased hearing officer. Following public hearing, the hearing officer shall determine whether such application shall be granted or denied. All expenses related to processing and adjudicating such applications shall be paid from the Trust Fund.

At any time within 30 days after the service of the hearing officer's decision, the applicant or any other affected party, including the Retirement System, may petition the hearing officer for a rehearing upon one or more of the following grounds and no other:

- 1. That the hearing officer acted without or in excess of the hearing officer's powers;
  - 2. That the decision was procured by fraud;
  - 3. That the evidence does not justify the decision; or

4. That the petitioner has discovered new material evidence which could not, with reasonable diligence, have been discovered and produced at the hearing.

The decision of the hearing officer shall be final upon the expiration of 30 days after the petition for rehearing is denied, or if the hearing is granted, upon the expiration of 30 days after the rendition of the decision. Such final decision shall not be subject to amendment, modification or rescission by the Board, but shall be subject to review by the Board only for the purpose of determining whether to seek judicial review.

#### SEC. 12.103. TRUST FUND.

The Retirement Fund shall be a trust fund to be administered by the Retirement Board in accordance with the provisions of this Charter solely for the benefit of the active members and retired members of the Retirement System and their survivors and beneficiaries. Administrative costs of the Retirement System, as adopted by the Board of Supervisors in the annual budget shall be paid from the accumulated contributions of the City and County.

The Fund is intended to qualify for tax deferred treatment under Section 401(a) of the Internal Revenue Code of 1986, as amended, and the Board is responsible for preserving the Fund's status.

#### SEC. 12.200. HEALTH SERVICE BOARD.

There shall be a Health Service Board which shall consist of seven members as follows: one member of the Board of Supervisors, to be appointed by the President of the Board of Supervisors; the City Attorney or designated deputy city attorney; two members appointed by the Mayor pursuant to Section 3.100, one of whom shall be

(9-96) CH-64

San Francisco Charter Section 12.200

an individual who regularly consults in the health care field, and the other a doctor of medicine; and three members elected from the active and retired members of the System from among their number. Elections shall be conducted by the Director of Elections in a manner prescribed by ordinance. Elected members need not reside within the City and County. The terms of members, other than the two ex officio members, shall be five years, one term expiring on May 15 of each year.

A vacancy on the Board appointed by the Mayor shall be filled by the Mayor. A vacancy in an elective office on the Board shall be filled by a special election within 90 days after the vacancy occurs unless a regular election is to be held within six months after such vacancy shall have occurred.

The Health Service Board shall:

- 1. Establish and maintain detailed historical costs for medical and hospital care and conduct an annual review of such costs;
  - 2. Apply benefits without special favor or privilege;
- 3. Put such plans as provided for in Section A8.422 into effect and, through the Human Resources Department, conduct and administer the same and contract therefor and use the funds of the System;
- 4. Make rules and regulations for the administration of business of the Health Service System, the granting of exemptions and the admission to the System of persons who are hereby made members, and such other officers and employees as may voluntarily become members with the approval of the Board; and
- 5. Receive, consider and, within 60 days after receipt, act upon any matter pertaining to the policies of, or appeals from, the Health Service System submitted to it in writing by any member or any person who has contracted to render medical care to the members.

## SEC. 12.201. MEDICAL DIRECTOR AND HEALTH SERVICES ADMINISTRATOR.

The Health Service Board may appoint a full-time or part-time medical director. He or she shall hold office at its pleasure. The medical director shall be responsible to the Board as a board, but not to any individual member or committee thereof. The Human Resources Director shall appoint a full-time administrator with experience in administering health plans or in comparable work, who shall hold office at the Human Resources Director's pleasure. The Board and each committee of the Board shall confine its activities to policy matters and to matters coming before it as an appeals board. The Board shall prepare its rules, regulations and policies so that they are clear, definite and complete and so that they can be readily administered by the Human Resources Department.

#### SEC. 12.202. MEMBERSHIP IN HEALTH SERVICE SYSTEM.

The members of the System shall consist of all officers and permanent employees of the City and County, the Unified School District, the Community College District, and such other officers, employees, dependents and retirees as provided by ordinance.

#### SEC. 12.203. HEALTH SERVICE SYSTEM FUND.

The Health Service System fund shall be a trust fund administered by the Health Service Board in accordance with the provisions of this Charter solely for the benefit

Section 12.203 San Francisco Charter

of the active and retired members of the Health Service System and their covered dependents. The City and County, School District and Community College District shall each contribute to the Health Service System Fund amounts sufficient to efficiently administer the Health Service System.

#### ARTICLE XIII

#### **ELECTIONS**

#### SEC. 13.100. CITY AND COUNTY ELECTIONS.

The Board of Supervisors shall adopt an Elections Code consistent with the provisions of this Charter. Where not otherwise provided by this Charter or by ordinance, all City and County elections shall be governed by the provisions of applicable state laws.

# SEC. 13.101. TERMS OF ELECTIVE OFFICE. [Effective through December 31, 1999]

Except in the case of an appointment or election to fill a vacancy, the term of office of each elected officer shall commence at 12:00 noon on the eighth day of January following the date of the election.

Subject to the applicable provisions for municipal runoff elections, the elected officers of the City and County shall be elected as follows:

At the general municipal election in 1995 and every fourth year thereafter, a Mayor, a Sheriff and a District Attorney shall be elected.

At the statewide general election in 1996 and every fourth year thereafter, six members of the Board of Supervisors, four members of the Board of Education and four members of the Governing Board of the Community College District shall be elected.

At the general municipal election in 1997 and every fourth year thereafter, a City Attorney and a Treasurer shall be elected.

At the statewide primary election in 1998 and every fourth year thereafter, an Assessor-Recorder and Public Defender shall be elected.

At the statewide general election in 1998 and every fourth year thereafter, five members of the Board of Supervisors, three members of the Board of Education and three members of the Governing Board of the Community College District shall be elected.

## SEC. 13.101. TERMS OF ELECTIVE OFFICE. [Effective January 1, 2000]

Except in the case of an appointment or election to fill a vacancy, the term of office of each elected officer shall commence at 12:00 noon on the eighth day of January following the date of the election.

Subject to the applicable provisions for municipal runoff elections, the elected officers of the City and County shall be elected as follows:

At the general municipal election in 1995 and every fourth year thereafter, a Mayor, a Sheriff and a District Attorney shall be elected.

At the statewide general election in 1996 and every fourth year thereafter, four members of the Board of Education and four members of the Governing Board of the Community College District shall be elected.

At the general municipal election in 1997 and every fourth year thereafter, a City Attorney and a Treasurer shall be elected.

At the statewide primary election in 1998 and every fourth year thereafter, an Assessor-Recorder and Public Defender shall be elected.

CH-67 (3-97)

At the statewide general election in 1998 and every fourth year thereafter, three members of the Board of Education and three members of the Governing Board of the Community College District shall be elected.

The election and terms of office of members of the Board of Supervisors shall be governed by Section 13.110. (Amended November 1996)

## SEC. 13.102. MUNICIPAL RUNOFF ELECTIONS. [Effective through December 31, 1999

If no candidate for any elective office of the City and County, except the Board of Supervisors, the Board of Education and the Governing Board of the Community College District, receives a majority of the votes cast at an election for such office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a municipal runoff election. A runoff election for the office of Mayor, Sheriff, District Attorney, City Attorney and Treasurer shall be held on the second Tuesday of the next ensuing December. A runoff election for Assessor-Recorder and Public Defender shall be held at the next general election.

## SEC. 13.102. MUNICIPAL RUNOFF ELECTIONS. [Effective January 1, 2000]

If no candidate for any elective office of the City and County, except the Board of Education and the Governing Board of the Community College District, receives a majority of the votes cast at an election for such office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a municipal runoff election. If no candidate for Board of Supervisors receives a majority of the votes cast within the district, the two candidates from the district receiving the most votes shall qualify to have their names placed on the ballot for a district runoff election. A runoff election for the office of Mayor, Sheriff, District Attorney, City Attorney and Treasurer, or a district runoff election for Supervisor, shall be held on the second Tuesday of the next ensuing December. A runoff election for Assessor-Recorder and Public Defender shall be held at the next general election. (Amended November 1996)

## SEC. 13.103. SPECIAL MUNICIPAL ELECTIONS.

Special municipal elections may be called in accordance with state laws.

The date of any special municipal election shall be fixed by the Board of Supervisors not less than 105 nor more than 120 days from the date of calling such election; however, no special municipal election shall be held within 105 days of any general municipal or statewide election. The Board of Supervisors may consolidate a special municipal election with a general municipal or statewide election.

The Board of Supervisors shall maintain a fund sufficient to pay all costs and expenses of the City and County with respect to a special municipal election, and such fund shall be used solely to pay the costs of such an election. Upon payment of any such costs or expenses, an appropriation shall be made in the next succeeding annual appropriations ordinance sufficient to reimburse the fund.

#### SEC. 13.104. DEPARTMENT OF ELECTIONS.

A Department of Elections shall be established to conduct all public federal, state, district and municipal elections in the City and County. The department will be administered by the Director of Elections, who shall be vested exclusively with

(3-97) CH-68

San Francisco Charter Section 13.104

the conduct and management of voter registration and matters pertaining to elections in the City and County.

The Director shall be appointed by the City Administrator from a list of qualified applicants provided pursuant to the civil service provisions of this Charter. The Director may be removed by the City Administrator for cause, subject to appeal to the Civil Service Commission.

For purposes of this section, the conduct of elections shall include, but not be limited to: voter registration; the nomination and filing process for candidates to City and County offices; the preparation and distribution of voter information materials; ballots, precinct operations and vote count; the prevention of fraud in such elections; and the recount of ballots in cases of challenge or fraud.

## SEC. 13.105. NOMINATION.

The City and County shall follow the nomination provisions for municipal elective offices in accordance with state laws, except as provided for by ordinance or this Charter.

## SEC. 13.106. QUALIFICATION.

Each candidate for an elective office of the City and County shall be a resident of the City and County and an elector at the time that nomination papers are issued to the candidate, and each elected officer shall continue to be an elector during the term of the office.

## SEC. 13.107. ELECTION MATERIAL MAILED TO VOTERS.

The Board of Supervisors shall, by ordinance, provide for the format of a voters' pamphlet including a sample ballot, candidates' statements, lists of sponsors, arguments for and against each ballot measure, any financial impact statements prepared by the Controller, and arguments for and against the recall of any officers. The voters' pamphlet shall be mailed to each elector so as to be received at least ten days prior to each general, runoff or special municipal election.

#### SEC. 13.108. DETERMINATION OF ELECTION RESULTS.

The canvass of votes cast, and certification of elections shall be as prescribed by law. If a person elected fails to qualify or for any reason does not take office, the office shall be filled in the manner prescribed by state law for the filling of a vacancy in such office.

### SEC. 13.109. FILING FEES.

The amount of fees to be charged for candidate filings, candidate statements, paid arguments and any other fees to be collected in the conduct of elections shall be proposed by the Director of Elections for approval by the Board of Supervisors on or before the second Monday in December immediately prior to the election in which the fees apply.

Signatures of registered voters in the City and County may be submitted in lieu of any filing fee. At the same time the Board of Supervisors approves the schedule of fees for the election, the Director of Elections, with the approval of the Board of Supervisors, shall establish the dollar value equivalent of each valid signature submitted.

CH-69 (3-97)

## SEC. 13.110. ELECTION OF SUPERVISORS. [Effective January 1, 2000]

- (a) The members of the board of supervisors shall be elected by district as set forth in this section.
- (b) The city and county shall be divided into 11 supervisorial districts as set forth in this section. Beginning with the general municipal election in 2000, and until new districts are established pursuant to this section, these districts shall be used for the election or recall of the members of the board of supervisors, and for filling any vacancy in the office of member of the board of supervisors by appointment. Once new districts are established, those districts shall be used for the same purposes. No change in the boundary or location of any district shall operate to abolish or terminate the term of office of any member of the board of supervisors prior to the expiration of the term of office for which such member was elected or appointed.
- (c) The 11 supervisorial districts shall be bounded and described as follows: FIRST SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of the shoreline of the Pacific Ocean and a straight-line extension of Lincoln Way; thence easterly along Lincoln Way to Arguello Boulevard; thence northerly along Arguello Boulevard to Kezar Drive; thence easterly along Kezar Drive to Waller Street; thence easterly along Waller Street to Stanyan Street; thence northerly along Stanyan Street to Fulton Street; thence easterly along Fulton Street to Parker Avenue; thence northerly along Parker Avenue to Lone Mountain Terrace; thence westerly along Lone Mountain Terrace to Stanyan Boulevard; thence northerly along Stanyan Boulevard to Geary Boulevard; thence westerly along Geary Boulevard to Arguello Boulevard; thence northerly along Arguello Boulevard to Lake Street; thence westerly along Lake Street to Twenty-Seventh Avenue; thence southerly along Twenty-Seventh Avenue to California Street; thence westerly along California Street to its point of intersection with the eastern boundary of Lincoln Park; thence northerly along said boundary to the shoreline of the Pacific Ocean; thence westerly and southerly along said shoreline to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.

SECOND SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of the shoreline of the Pacific Ocean and the eastern boundary of Lincoln Park; thence southerly along said boundary to California Street; thence easterly along California Street to Twenty-Seventh Avenue; thence northerly along Twenty-Seventh Avenue to Lake Street; thence easterly along Lake Street to Arguello Boulevard; thence southerly along Arguello Boulevard to Geary Boulevard; thence easterly along Geary Boulevard to Stanyan Boulevard; thence southerly along Stanyan Boulevard to Lone Mountain Terrace; thence easterly along Lone Mountain Terrace to Parker Avenue; thence southerly along Parker Avenue to Fulton Street: thence easterly along Fulton Street to Masonic Avenue; thence northerly along Masonic Avenue to Turk Boulevard; thence easterly along Turk Boulevard to St. Joseph's Avenue; thence northerly and northwesterly along St. Joseph's Avenue to Geary Boulevard; thence westerly along Geary Boulevard to Presidio Avenue; thence northerly along Presidio Avenue to California Street; thence easterly along California Street to Laguna Street; thence southerly along Laguna Street to Geary Boulevard; thence easterly along Geary Boulevard to the

(3-97) CH-70

San Francisco Charter Section 13.110

center point of the intersection of Geary Boulevard and Starr King Way; thence southeasterly and easterly along Starr King Way to Van Ness Avenue; thence northerly along Van Ness Avenue to Green Street; thence easterly along Green Street to Leavenworth Street; thence northerly along Leavenworth Street and a northerly straight-line extension thereof to the point of intersection with the shoreline of San Francisco Bay; thence generally westerly and southerly along said shoreline to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.

THIRD SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of a northerly straight-line extension of Leavenworth Street and the shoreline of San Francisco Bay; thence easterly and southerly along said shoreline to the point of intersection with a north-easterly straight-line extension of Mission Street and including all piers north or said intersection; thence southwesterly along said straight-line extension of Mission Street to the Embarcadero; thence northwesterly along the Embarcadero to the intersection with a northeasterly straight-line extension of Market Street; thence southwesterly along Market Street to Sutter Street; thence westerly along Sutter Street to Van Ness Avenue; thence northerly along Van Ness Avenue to Green Street; thence easterly along Green Street to Leavenworth Street; thence northerly along Leavenworth Street and a straight-line extension thereof to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.

FOURTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of the shoreline of the Pacific Ocean and a straight-line extension of Lincoln Way; thence easterly along Lincoln Way to Nineteenth Avenue; thence southerly along Nineteenth Avenue to Sloat Boulevard; thence westerly along Sloat Boulevard and a straight-line extension thereof to the point of intersection with the shoreline of the Pacific Ocean; thence northerly along said shoreline to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.

FIFTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of Lincoln Way and Nineteenth Avenue; thence easterly along Lincoln Way to Arguello Boulevard; thence northerly along Arguello Boulevard to Kezar Drive; thence easterly along Kezar Drive to Waller Street; thence easterly along Waller Street to Stanyan Street; thence northerly along Stanyan Street to Fulton Street; thence easterly along Fulton Street to Masonic Avenue; thence northerly along Masonic Avenue to Turk Boulevard; thence easterly along Turk Boulevard to St. Joseph's Avenue; thence northerly and northwesterly along St. Joseph's Avenue to Geary Boulevard; thence westerly along Geary Boulevard to Presidio Avenue; thence northerly along Presidio Avenue to California Street; thence easterly along California Street to Laguna Street; thence southwesterly along Market Street to Duboce Avenue; thence westerly along Duboce Avenue to Buena Vista

CH-71 (3-97)

Avenue East; thence southwesterly along Buena Vista Avenue East to Buena Vista Avenue West: thence northerly along Buena Vista Avenue West to Frederick Street; thence westerly along Frederick Street to Ashbury Street; thence southerly and southwesterly along Ashbury Street to Clayton Street; thence southerly along Clayton Street to Twin Peaks Boulevard; thence southwesterly along Twin Peaks Boulevard to Clarendon Avenue; thence westerly along Clarendon Avenue and a straight-line extension thereof to Stanyan Street; thence northerly along Stanyan Street to the intersection of Stanyan Street and Seventeenth Street; thence westerly to the intersection of a straight-line extension of Seventeenth Street with the eastern boundary of the campus of the University of California San Francisco; thence generally northerly, northwesterly and westerly along the eastern and northeastern boundary of said campus to Parnassus Avenue; thence westerly along Parnassus Avenue to Nineteenth Avenue: thence northerly along Nineteenth Avenue to the point of commencement. Unless specifically designated to the contrary, all references to streets. boulevards. drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways. respectively.

SIXTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of a northeasterly straight-line extension of Mission Street and the shoreline of San Francisco Bay; thence southwesterly along said straight-line extension of Mission Street to the Embarcadero; thence northwesterly along the Embarcadero to the intersection with a northeasterly straightline extension of Market Street; thence southwesterly along Market Street to Sutter Street: thence westerly along Sutter Street to Van Ness Avenue; thence southerly along Van Ness Avenue to Starr King Way; thence westerly and northwesterly along Starr King Way to the center point of the intersection of Geary Boulevard and Starr King Way: thence westerly along Geary Boulevard to Laguna Street; thence southerly along Laguna Street to Market Street; thence northeasterly along Market Street to Guerrero Street; thence southerly along Guerrero Street to Seventeenth Street: thence easterly along Seventeenth Street to Pennsylvania Street; thence northerly along Pennsylvania Street to Sixteenth Street; thence easterly along Sixteenth Street and a straight-line extension thereof to the shoreline of San Francisco Bay; thence generally northerly along said shoreling to the point of commencement and including all piers and rows of vessels. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.

SEVENTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the intersection of the southern boundary of the city and county and the centerline of Junipero Serra Boulevard; thence northerly along Junipero Serra Boulevard to Holloway Avenue; thence easterly along Holloway Avenue to Ashton Avenue; thence northerly along Ashton Avenue to Ocean Avenue; thence generally southeasterly and easterly along Ocean Avenue to the intersection of the Southern Freeway (Interstate Route 280); thence generally northeasterly along the centerline of the Southern Freeway (Interstate Route 280) to San Jose Avenue; thence northeasterly along San Jose Avenue to Bosworth Street; thence northwesterly along Bosworth Street to O'Shaughnessy Boulevard; thence generally northwesterly along O'Shaughnessy Boulevard to Portola Drive; thence northeasterly along Portola

(3-97) CH-72

San Francisco Charter Section 13.110

Drive to Twin Peaks Boulevard; thence generally northerly along Twin Peaks Boulevard to Clarendon Avenue; thence westerly along Clarendon Avenue and a straight-line extension thereof to Stanyan Street; thence northerly along Stanyan Street to the intersection of Stanyan Street and Seventeenth Street; thence westerly to the intersection of a straight-line extension of Seventeenth Street with the eastern boundary of the campus of the University of California San Francisco; thence northerly, northwesterly and westerly along the eastern and northeastern boundary of said campus to Parnassus Avenue; thence westerly along Parnassus Avenue to Nineteenth Avenue; thence southerly along Nineteenth Avenue to Sloat Boulevard: thence westerly along Sloat Boulevard and a straight-line extension thereof to the point of intersection with the shoreline of the Pacific Ocean; thence southerly along said shoreline to the southern boundary of the city and county; thence easterly along said boundary to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, houlevards, drives, avenues, terraces and ways, respectively.

EIGHTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the intersection of San Jose Avenue and Bosworth Street; thence northwesterly along Bosworth Street to O'Shaughnessy Boulevard; thence generally northwesterly along O'Shaughnessy Boulevard to Portola Drive; thence northeasterly along Portola Drive to Twin Peaks Boulevard; thence generally northerly along Twin Peaks Boulevard to Clarendon Avenue; thence easterly along Clarendon Avenue to Twin Peaks Boulevard; thence northeasterly along Twin Peaks Boulevard to Clayton Street; thence northerly along Clayton Street to Ashbury Street; thence northeasterly and northerly along Ashbury Street to Frederick Street; thence easterly along Frederick Street to Buena Vista Avenue West; thence southerly along Buena Vista Avenue West to Buena Vista Avenue East; thence northeasterly along Buena Vista Avenue East to Duboce Avenue; thence easterly along Duboce Avenue to Market Street; thence northeasterly along Market Street to Guerrero Street; thence southerly along Guerrero Street to San Jose Avenue; thence southwesterly along San Jose Avenue to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.

NINTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the intersection of the centerline of the Southern Freeway (Interstate Route 280) and San Jose Avenue; thence northeasterly along San Jose Avenue to Guerrero Street; thence northerly along Guerrero Street to Seventeenth Street; thence easterly along Seventeenth Street to the centerline of the James Lick Freeway (State Route 101); thence generally southerly along the centerline of the James Lick Freeway (State Route 101) to the interchange with the Southern Freeway (Interstate Route 280); thence generally southwesterly along the centerline of the Southern Freeway (Interstate Route 280) to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.

CH-72.1 (3-97)

TENTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the intersection of the southern boundary of the city and county and the centerline of Carter Street; thence northerly along Carter Street to Geneva Avenue; thence northwesterly along Geneva Avenue to the point of intersection with a southerly straight-line extension of the boundary between Crocker Amazon Playground and John McLaren Park; thence generally northerly along the western boundary of John McLaren Park to Burrows Street; thence easterly along Burrows Street to Harvard Street; thence southerly along Harvard Street to Bacon Street: thence easterly along Bacon Street to Oxford Street; thence southerly along Oxford Street to Wayland Street; thence easterly along Wayland Street to Cambridge Street; thence northerly along Cambridge Street to Felton Street; thence easterly along Felton Street to Amherst Street; thence northerly along Amherst Street to Silver Avenue: thence easterly along Silver Avenue to Colby Street; thence northerly along Colby Street to Sweeny Street; thence easterly along Sweeny Street to Bowdoin Street; thence northerly along Bowdoin Street and a northerly straight-line extension thereof to the centerline of the Southern Freeway (Interstate Route 280); thence northeasterly along the centerline of the Southern Freeway (Interstate Route 280) to the point of interchange with the James Lick Freeway (State Route 101); thence generally northerly along the centerline of the James Lick Freeway (State Route 101) to Seventeenth Street; thence easterly along Seventeenth Street to Pennsylvania Street; thence northerly along Pennsylvania Street to Sixteenth Street; thence easterly along Sixteenth Street and a straight-line extension thereof to the point of intersection with the shoreline of San Francisco Bay; thence generally southerly along said shoreline to the southern boundary of the city and county and including all piers south of said intersection; thence along the southern boundary of the city and county to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing description shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.

ELEVENTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county not otherwise described as constituting the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth or Tenth Supervisorial Districts.

(d) Within 60 days following publication of the decennial federal census in the year 2000 and every decennial federal census after that, the Director of Elections shall report to the Board of Supervisors on whether the existing districts continue to meet the requirements of federal and state law and the criteria for drawing districts lines set in the Charter.

The criteria for drawing districts lines are:

Districts must conform to all legal requirements, including the requirement that they be equal in population. Population variations between districts should be limited to 1 percent from the statistical mean unless additional variations, limited to 5 percent of the statistical mean, are necessary to prevent dividing or diluting the voting power of minorities and/or to keep recognized neighborhoods intact; provided, however, that the redistricting provided for herein shall conform to the rule of one person, one vote, and shall reflect communities of interest within the city and county.

If it is determined that the districts are in compliance with all legal requirements, including the requirement that they be equal in population, the current districts as drawn will be valid for the next decade. If it is determined that any of the districts

(3-97) CH-72.2

San Francisco Charter

are not in compliance, the Board of Supervisors by ordinance shall convene and fund a nine-member elections task force. Three members shall be appointed by the Board of Supervisors, three members shall be appointed by the Mayor, and three members shall be appointed by the Director of Elections. The Director of Elections shall serve ex officio as a non-voting member. The task force shall be responsible for redrawing the district lines in accordance with the law and the criteria established in this Section, and shall make such adjustments as appropriate based on public input at public hearings. The Board of Supervisors may not revise the district boundaries established by the task force.

- (e) Each member of the board of supervisors, commencing with the general municipal election in November, 2000, shall be elected by the electors within a supervisorial district, and must have resided in the district in which he or she is elected for a period of not less than 30 days immediately preceding the date he or she files a declaration of candidacy for the office of supervisor, and must continue to reside therein during his or her incumbency, and upon ceasing to be such resident shall be removed from office.
- Notwithstanding any provisions of this section or any other section of the charter to the contrary, the respective terms of office of the members of the board of supervisors who shall hold office on the eighth day of January, 2001, shall expire at 12 o'clock noon on said date and the 11 persons elected as members of the board of supervisors at the general election in 2000 shall succeed to said offices on said eighth day of January, 2001. At that time, the clerk of the board of supervisors shall determine by lot whether the supervisors elected from the even- or odd-numbered supervisorial districts at the general municipal election in 2000 shall have terms of office expiring at noon on the eighth day of January, 2003, and which shall have terms of office expiring at noon on the eighth day of January, 2005; commencing, however, with the general municipal election in November, 2002, the terms of office of the supervisors elected from the even- or odd-numbered supervisorial districts, as the case may be, shall be for a term of four years and shall continue as such thereafter. Those members of the board of supervisors elected at the general election in 1998, and those elected at the general election in 2000 who only serve an initial twoyear term, shall not be deemed to have served a full term for purposes of the term limit established in Section 2.101. (Added November 1996)

CH-72.3 (3-97)



San Francisco Charter Section 14.100

## **ARTICLE XIV**

## INITIATIVE, REFERENDUM AND RECALL

#### SEC. 14.100. GENERAL.

Except as otherwise provided in this Article, the voters of the City and County shall have the power to enact initiatives and the power to nullify acts or measures involving legislative matters by referendum.

#### SEC. 14.101. INITIATIVES.

An initiative may be proposed by presenting to the Director of Elections a petition containing the initiative and signed by voters in a number equal to at least five percent of the votes cast for all candidates for mayor in the last preceding general municipal election for Mayor. Such initiative shall be submitted to the voters by the Director of Elections upon certification of the sufficiency of the petition's signatures.

A vote on such initiative shall occur at the next general municipal or statewide election occurring at any time after 90 days from the date of the certificate of sufficiency executed by the Director of Elections, unless the Board of Supervisors directs that the initiative be voted upon at a special municipal election.

If the petition containing the initiative is signed by voters in a number equal to at least ten percent of the votes cast for all candidates for Mayor in the last preceding general municipal election for Mayor, and contains a request that the initiative be submitted forthwith to voters at a special municipal election, the Director of Elections shall promptly call such a special municipal election on the initiative. Such election shall be held not less than 105 nor more than 120 days from the date of its calling unless it is within 105 days of a general municipal or statewide election, in which event the initiative shall be submitted at such general municipal or statewide election.

No initiative or declaration of policy approved by the voters shall be subject to veto, or to amendment or repeal except by the voters, unless such initiative or declaration of policy shall otherwise provide.

#### SEC. 14.102. LEGISLATIVE REFERENDUM.

Prior to the effective date of an ordinance, a referendum on that ordinance may be proposed by filing with the Board of Supervisors a petition protesting the passage of that ordinance. Such petition shall be signed by voters in a number equal to at least ten percent, or in the case of an ordinance granting any franchise, at least five percent, of the votes east for all candidates for Mayor in the last preceding general municipal election for Mayor.

Such ordinance shall then be suspended from becoming effective. The Board of Supervisors shall reconsider the ordinance. If it is not entirely repealed, the Board of Supervisors shall submit the ordinance to the voters at the next general municipal or statewide election or at a special municipal election. Such ordinance shall not become effective until approved by voters at such an election.

## SEC. 14.103. RECALL. [Effective through December 31, 1999]

An elected official of the City and County, the City Administrator, the Controller, or any member of the Airports Commission, the Board of Education, the govern-

CH-72.5 (3-97)

ing board of the Community College District, the Ethics Commission or the Public Utilities Commission may be recalled by the voters as provided by this Charter and by the laws of the State of California, except that no recall petitions shall be initiated with respect to any officer who has held office for less than six months.

A recall petition shall include the signatures of voters in a number equal to at least ten percent of registered voters of the City and County at time of the filing of the notice of intention to circulate the recall petitions. A recall petition shall state the grounds on which the recall is based.

Upon certifying the sufficiency of the recall petition's signatures, the Director of Elections shall immediately call a special municipal election on the recall, to be held not less than 105 nor more than 120 days from the date of its calling unless it is within 105 days of a general municipal or statewide election, in which event the recall shall be submitted at such general municipal or statewide election.

## SEC. 14.103. RECALL. [Effective January 1, 2000]

An elected official of the City and County, the City Administrator, the Controller, or any member of the Airports Commission, the Board of Education, the governing board of the Community College District, the Ethics Commission or the Public Utilities Commission may be recalled by the voters as provided by this Charter and by the laws of the State of California, except that no recall petitions shall be initiated with respect to any officer who has held office for less than six months.

A recall petition shall include the signatures of voters in a number equal to at least ten percent of registered voters of the City and County at time of the filing of the notice of intention to circulate the recall petitions. A recall petition for a member of the Board of Supervisors shall include signatures of voters from the district from which the Supervisor was elected in a number equal to at least ten percent of the registered voters of the district at the time of the filing of the notice of intention to circulate the recall petition. A recall petition shall state the grounds on which the recall is based.

Upon certifying the sufficiency of the recall petition's signatures, the Director of Elections shall immediately call a special municipal election on the recall, to be held not less than 105 nor more than 120 days from the date of its calling unless it is within 105 days of a general municipal or statewide election, in which event the recall shall be submitted at such general municipal or statewide election. (Amended November 1996)

#### SEC. 14.104. PETITIONS—WITHDRAWAL OF SIGNATURES.

A person signing a petition for initiative, referendum or recall may withdraw his or her name from such petition by filing with the Director of Elections a verified revocation of that signature prior to the filing of such petition itself.

(3-97) CH-72.6

#### ARTICLE XV

#### **ETHICS**

#### SEC. 15.100. ETHICS COMMISSION.

The Ethics Commission shall consist of five members who shall serve four-year terms. The Mayor, the Board of Supervisors, the City Attorney, the District Attorney and the Controller each shall appoint one member of the Commission. The member appointed by the Mayor shall have a background in public information and public meetings. The member appointed by the City Attorney shall have a background in law as it relates to government ethics. The member appointed by the Controller shall have a background in campaign finance. The members appointed by the District Attorney and Board of Supervisors shall be broadly representative of the general public.

In the event a vacancy occurs, the officer who appointed the member vacating the office shall appoint a qualified person to complete the remainder of the term. Members of the Commission shall serve without compensation. Members of the Commission shall be officers of the City and County, and may be removed by the Mayor only pursuant to Section 15.105.

No person may serve more than one term as a member of the Commission, provided that persons appointed to less than four-year terms shall be eligible to be appointed to one additional four-year term. During his or her tenure, neither a member of the Commission nor its executive director may: hold any other public office or any employment with the City or any City officer; participate in or contribute to a campaign involving a candidate for City office, a City ballot measure or a City official seeking any elective office; or employ or be employed by, or receive any gifts or other compensation from, a person required to register as a lobbyist under the City's lobbyist ordinance, a person who employs someone required to register as a lobbyist under the City's lobbyist ordinance, or a person who is employed by or holds office in an organization that makes political endorsements.

The Commission may subpoen a witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoen the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers.

## SEC. 15.101. EXECUTIVE DIRECTOR.

The Commission shall appoint and may remove an Executive Director. The Executive Director shall have a background in campaign finance, public information and public meetings and the law as it relates to governmental ethics. The Executive Director shall be the chief executive of the department and shall have all the powers provided for department heads. The Commission shall have the power to appoint auditors and investigators, who shall serve at the Commission's pleasure. Subject to the civil service provisions of this Charter, the Executive Director shall have the power to appoint and remove other employees of the Commission and the Department.

#### SEC. 15.102. RULES AND REGULATIONS.

The Commission may adopt, amend and rescind rules and regulations consistent with and related to carrying out the purposes and provisions of this Charter and ordinances related to campaign finances, conflicts of interest, lobbying and governmental ethics and to govern procedures of the Commission. In addition, the Commission may adopt rules and regulations relating to carrying out the purposes and provisions of ordinances regarding open meetings and public records. The Commission shall transmit to the Board of Supervisors rules and regulations adopted by the Commission within 24 hours of their adoption. A rule or regulation adopted by the Commission shall become effective 60 days after the date of its adoption unless before the expiration of this 60-day period two-thirds of all members of the Board of Supervisors vote to veto the rule or regulation.

The City Attorney shall be the legal advisor of the Commission. If the City Attorney determines in writing that he or she cannot, consistent with the rules of professional conduct, provide advice sought by the Commission, tho City Attorney may authorize the Commission to retain outside counsel to advise the Commission.

Any ordinance which the Supervisors are empowered to pass relating to conflicts of interest, campaign finance, lobbying or governmental ethics may be submitted to the electors at the next succeeding general election by the Ethics Commission by a four-fifths vote of all its members.

## SEC. 15.103. CONFLICT OF INTEREST.

All officers and employees of the City and County shall be subject to all state laws and City ordinances proscribing conflicts of interest and incompatible activities, as well as the provisions of Section C8.105. Any violation of such laws shall be official misconduct and shall be a basis for discipline and/or removal, in addition to any other penalties prescribed by law.

## SEC. 15.104. PENALTY FOR OFFICIAL MISCONDUCT.

Any person found guilty of official misconduct shall forfeit his or her office, and shall be forever after disbarred and disqualified from being elected, appointed or employed in the service of the City and County.

## SEC. 15.105. SUSPENSION AND REMOVAL.

Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Ethics Commission, Health Commission, Human Services Commission, Juvenile Probation Commission, Public Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community College Board may be suspended by the Mayor and removed by the Board of Supervisors for official misconduct, and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics Commission in his or

San Francisco Charter Section 15.105

her defense. Hearing by the Ethics Commission shall be held not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

Members of the Building Inspection Commission appointed by the Mayor may be suspended and removed pursuant to the provisions set forth above. Members of the Commission appointed by the President of the Board of Supervisors may be suspended and removed pursuant to the same procedures, except that the President

of the Board shall act in place of the Mayor.

The Mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the Mayor so to act shall constitute official misconduct on his or her part. Any appointee of the Mayor or the Board of Supervisors guilty of official misconduct or convicted of crime involving moral turpitude must be removed by the Mayor or the Board of Supervisors, as the case may be, and failure of the Mayor or any Supervisor to take such action shall constitute official misconduct on their part.

## SEC. 15.106. DUAL OFFICE HOLDING.

Any person holding an office under the City and County with an annual salary in excess of \$2,500 whether by election or by appointment, who shall, during his or her term of office, hold or retain any other office with such a salary under the government of the United States, the State of California, or the City and County shall be deemed to have thereby vacated the office held by him or her under the City and County.

## SEC. 15.107. REPORTING OF CAMPAIGN FINANCING.

The Board of Supervisors shall, by ordinance, prescribe requirements for campaign contributions and expenditures and any limitations thereon with respect to candidates for elective office and ballot measures in the City and County.

## SEC. 15.108. EMPLOYMENT OF FORMER MAYOR OR SUPERVISOR.

No person shall be eligible for a period of one year after the last day of service as Mayor or member of the Board of Supervisors for appointment to any full-time, compensated employment with the City and County. This restriction shall not apply to a former Mayor or Supervisor elected to an office of the City and County, appointed to fill a vacancy in an elective office of the City and County, or appointed to a board or commission in the executive branch.



#### ARTICLE XVI

#### MISCELLANEOUS PROVISIONS

#### SEC. 16.100. CABLE CARS.

In the conduct of the public transportation system there shall be maintained and operated cable car lines as follows:

- 1. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Mason Street; thence along Mason Street to Columbus Avenue; thence along Columbus Avenue to Taylor Street; thence along Taylor Street to a terminal at Bay Street; returning from Bay and Taylor Streets along Taylor Street to Columbus Avenue; thence along Columbus Avenue to Mason Street; thence along Mason Street to Washington Street; thence along Washington Street to Powell Street; and thence along Powell Street to Market Street, the point of commencement.
- 2. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Hyde Street; thence along Hyde Street to a terminal at Beach; returning from Beach and Hyde Streets along Hyde Street to Washington Street; thence along Washington Street to Powell Street; thence along Powell Street to Market Street, the point of commencement.
- 3. A line commencing at Market and California; thence along California Street to a terminal at Van Ness Avenue; returning from Van Ness Avenue along California Street to Market Street, the point of commencement.

To fully effectuate the intent of this section, these lines shall be maintained and operated at the normal levels of scheduling and service in effect on July 1, 1971; provided, however, that nothing herein contained shall prevent the increasing of the levels of scheduling and service.

## SEC. 16.101. ACQUISITION OF PUBLIC UTILITIES.

It is the declared purpose and intention of the people of the City and County, when public interest and necessity demand, that public utilities shall be gradually acquired and ultimately owned by the City and County. Whenever the Board of Supervisors, as provided in Sections 9.106, 9.107 and 9.108 of this Charter, shall determine that the public interest or necessity demands the acquisition, construction or completion of any public utility or utilities by the City and County, or whenever the electors shall petition the Board of Supervisors, as provided in Sections 9.110 and 14.101 of this Charter, for the acquisition of any public utility or utilities, the Supervisors must procure a report from the Public Utilities Commission thereon.

#### SEC. 16.102. TRANSIT-FIRST POLICY.

The following principles shall constitute the City and County's transit-first policy. All officers, commissions and departments shall consider these principles in conducting the City and County's affairs:

- 1. Transit first is, has been and shall continue to be the policy of the City and County of San Francisco;
- 2. The efficient movement of people and goods is essential for the economic health and quality of life in San Francisco;

3. Public transportation is an economically and environmentally sound alternative to transportation by individual automobiles;

4. The designation of streets as public transit only and/or public transit and commercial only reduces excessive vehicular traffic congestion on the City's streets, thereby relieving traffic congestion and facilitating the protection of sensitive areas and healthful air quality;

5. Enforcement of pedestrian zones enhances the safety of pedestrians; and

6. The effective implementation of the City's transit-first policy requires the cooperation of all City agencies, departments and commissions.

## SEC. 16.103. UTILITY REVENUES AND EXPENDITURES.

- (a) Receipts from each utility operated by the Public Utilities Commission shall be paid into the City and County treasury and maintained in a separate fund for each such utility. Appropriations from such funds shall be made for the following purposes for each such utility in the order named, viz:
- 1. For the payment of operating expenses, pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the Commission may establish or the Board of Supervisors may require;
  - 2. For repairs and maintenance;
  - 3. For reconstruction and replacements as hereinafter described;
- 4. For the payment of interest and sinking funds on the bonds issued for acquisition, construction or extension;
  - 5. For extensions and improvements; and
  - 6. For a surplus fund.
- (b) For the purpose of providing funds for reconstruction and replacements due to physical and functional depreciation of each of the utilities under the jurisdiction of the Commission, the Commission must create and maintain a reconstruction and replacement fund for each such utility, sufficient for the purposes mentioned in this section, and in accordance with an established practice for utilities of similar character, which shall be the basis for the amount necessary to be appropriated annually to provide for said reconstruction and replacements.
- 1. If, at the end of any fiscal year, the Controller certifies that excess surplus funds of a utility exist, then such excess surplus funds may be transferred by the Board of Supervisors to the General Fund of the City and County, and shall be deposited by the Commission with the Treasurer to the credit of such General Fund. For the purposes of this subsection, excess surplus funds shall exist if the utility has unappropriated, unencumbered funds in excess of 25 percent of the total expenditures of such utility in the previous fiscal year for costs of operation, repair and maintenance.
- 2. If, as part of the budgeting process, the Controller estimates that there will exist, at the end of the budget year, excess surplus funds of a utility, the Board of Supervisors may budget such excess as revenue to the General Fund for that budget year. During the budget year, the Commission shall deposit with the Treasurer a pro rata portion of the then-estimated excess surplus funds no less frequently than quarterly. For the purposes of this subsection, excess surplus funds shall exist if the utility has unappropriated, unencumbered funds in excess of 25 percent of the total expenditure of such utility in the previous fiscal year for costs of operation, repair and maintenance.

San Francisco Charter Section 16.103

3. At any time, the Commission may, with the concurrence of two-thirds of the Board of Supervisors, authorize the transfer of any portion of a utility's surplus funds to the General Fund upon making all of the following findings of fact and judgment:

- (A) That a surplus exists or is projected to exist after meeting the requirements of this section:
- (B) That there is no unfunded operating or capital program that by its lack of funding could jeopardize health, safety, water supply or power production;
- (C) That there is no reasonably foreseeable operating contingency that cannot be funded without General Fund subsidy; and
- (D) That such a transfer of funds in all other respects reflects prudent utility practice.

The Commission shall make such findings having received reports from the manager of utilities and a public hearing which shall have received no less than 30 days of public notice.

4. The provisions of subsection (b) above shall not be applied in a manner that would be inconsistent with the provisions of any outstanding or future indentures, resolutions, contracts or other agreements of the City and County relating to bonded indebtedness issued in connection with the utility, or with any applicable state or federal laws.

#### SEC. 16.104. AIRPORT REVENUE FUND.

Subject to the budget and fiscal provisions of this Charter:

(a) The entire gross revenue of the Airport Commission shall be set aside and deposited into a fund in the City and County treasury to be known as the "Airport Revenue Fund." All amounts paid into the Fund shall be maintained by the Treasurer separate and apart from all other City and County funds and shall be secured by the Treasurer's official bond or bonds.

Separate accounts shall be kept with respect to receipts and disbursements of each airport under the jurisdiction of the Commission.

- (b) Monies in the Airport Revenue Fund including earnings thereon shall be appropriated, transferred, expended or used for the following purposes pertaining to the financing, maintenance and operation of airports and related facilities owned, operated or controlled by the Commission and only in accordance with the following priority:
- 1. The payment of operation and maintenance expenses for such airports or related facilities;
- 2. The payment of pension charges and proportionate payments to such compensation and other insurance or outside reserve funds as the Commission may establish or the Board of Supervisors may require with respect to employees of the Commission:
- 3. The payment of principal, interest, reserve, sinking fund and other mandatory funds created to secure revenue bonds hereafter issued by the Commission for the acquisition, construction or extension of airports or related facilities owned, operated or controlled by the Commission;
- 4. The payment of principal and interest on general obligation bonds heretofore or hereafter issued by the City and County for airport purposes;

5. Reconstruction and replacement as determined by the Commission or as required by any airport revenue bond ordinance duly adopted and approved;

- 6. The acquisition of land, real property or interest in real property for, and the acquisition, construction, enlargement and improvement of new and existing buildings, structures, facilities, utilities, equipment, appliances and other property necessary or convenient for the development or improvement of any airports and heliports owned, controlled or operated by the Commission in the promotion and accommodation of air commerce or navigation and matters incidental thereto;
- 7. The return and repayment into the General Fund of the City and County of any sums paid by the City and County from funds raised by taxation for the payment of interest on and principal of any general obligation bonds previously issued by the City and County for the acquisition, construction and improvement of the San Francisco International Airport;
- 8. For any other lawful purpose of the Commission including, but not limited to, transfer to the General Fund during each fiscal year of 25 percent, or such lesser percentage as the Board of Supervisors shall establish, of the non-airline revenues as a return upon the City and County's investment in the Airport. "Non-airline" revenues means all airport revenues from whatever source less revenues from airline rentals and charges to airlines for use of Airport facilities.

## SEC. 16.105. CALIFORNIA ACADEMY OF SCIENCES.

All buildings and improvements erected by or under the authority of the California Academy of Sciences, in or on property owned or controlled by the City and County, including but not limited to the Steinhart Aquarium, the original Natural History Museum, the Simson African Hall and the additions housing, among other things, the Alexander F. Morrison Planetarium and Auditorium, are the property of the City and County. However, the buildings and improvements, and the activities and personnel therein shall be managed and controlled exclusively by the California Academy of Sciences, except that employees of the City and County shall be subject to the personnel provisions of this Charter and their compensation fixed in accordance with this Charter and City and County funds are subject to the financial provisions of this Charter.

The California Academy of Sciences shall submit to the Mayor and Board of Supervisors an annual financial statement of its activities in connection with the operation of the buildings described in this section.

Nothing herein shall abrogate any trust by which any property of the California Academy of Sciences has been acquired.

# SEC. 16.106. CULTURAL, EDUCATIONAL AND RECREATIONAL APPROPRIATIONS.

The Board of Supervisors shall annually appropriate:

1. To the Arts Commission, the revenue from a tax of one-eighth of one cent (\$0.00125) per one hundred dollars (\$100) of taxable assessed valuation in the City and County for maintaining a symphony orchestra;

2. To the Asian Art Commission, an amount sufficient for the purpose of maintaining, displaying, and providing for the security of the City and County's collection of Asian art:

San Francisco Charter

- 3. To the California Academy of Sciences, funds necessary for the maintenance, operation and continuance of the Steinhart Aquarium; the Board of Supervisors shall have the power to furnish to the California Academy of Sciences such funds as the Board shall deem proper for the maintenance, operation and continuance of any or all other of the buildings and improvements placed under the control of the California Academy of Sciences;
- 4. To the Fine Arts Museums Board of Trustees, an amount sufficient for the purpose of maintaining, operating, providing for the security of, expanding and superintending the fine arts museums and for the purchase of objects of art, literary productions and other personal property;
- 5. To the War Memorial and Performing Arts Center Board of Trustees, an amount sufficient to defray the cost of maintaining, operating and caring for the War Memorial and Performing Arts Center;
- 6. To the Library Commission, the revenue from a minimum tax of one cent (\$0.01) per hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving the library system of the City and County;
- 7. To the Recreation and Park Commission, the revenue from a minimum tax of two and one-half cents (\$0.025) per one hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving parks and squares, and the revenue from a minimum tax of one and three quarter cents (\$0.0175) per one hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving playgrounds; and
- 8. To the Arts Commission, for the City and County-owned Community Cultural Centers, an amount sufficient for the purpose of maintaining, operating, providing for the security and superintending of their facilities and grounds, and for the purchase of objects of art, literary productions, and other property, and for their expansion and continuance in the City and County of San Francisco.

# SEC. 16.107. OPEN SPACE ACQUISITIONS AND PARK RENOVATION FUND.

- (a) Establishment Of Fund. There is hereby established the Park and Open Space Fund ("Fund") to be administered by the Recreation and Park Commission. Monies in the Fund shall be appropriated, allocated, transferred, expended or used consistent with, and to implement, the "Recreation and Open Space Element of the General Plan" ("Plan") and the "Programs for Implementation of the Recreation and Open Space Element of the General Plan" ("Programs"), as provided for herein. The Fund shall be used for the purposes set forth in subsection (d) below.
- (b) Interagency Cooperation. Consistent with the Plan and Programs, lands currently under the jurisdiction of any City agency may be acquired or developed with the Fund provided for herein. The Recreation and Park Commission, Port Commission, Department of Public Works, Water Department, or their successors, and all other City agencies, are hereby authorized to enter into contracts appropriate to carry out the purposes of this section. Unless approved by a two-thirds vote of the Board of Supervisors, the amount paid for any lands purchased or acquired in fee from any other public agency or City department or agency shall be no greater than the most recent selling price for such lands.
- (c) Annual Tax. There is hereby imposed for a period of 15 years starting with the fiscal year 1990-91, an annual tax of two and one-half cents (\$0.025) for each one

San Francisco Charter

hundred dollars (\$100) assessed valuation. Revenues obtained thereby shall be in addition to, and not in place of any sums normally budgeted for the Recreation and Park Department and, together with interest earned thereon, shall be deposited into the Fund. In addition, all grants, gifts and bequests paid to the City and County for open space acquisition and park renovation, and interest earned thereon, unless otherwise restricted, shall be deposited into the Fund. Establishment of this Fund is not intended to preclude any other similar programs or any similar use of funds by the City and County or any department, agency, commission or instrumentality thereof. All amounts paid into the Fund shall be maintained by the Treasurer, separate and apart from all other City and County funds, and shall be secured by his or her official bond.

- (d) Use And Allocation Of The Fund. Each year, the Recreation and Park Commission and City Planning Commission shall hold at least one joint public hearing at which, by a majority of each commission and with the concurrence of the Board of Supervisors, they shall adopt a budget for the allocation and expenditure of the Fund which is consistent with and implements the Plan and Programs. Not more than 40 percent of the Fund may be allocated for maintenance of properties acquired pursuant to this section between its enactment in 1974 and fiscal year 1990-1991. As used herein, "maintenance" means salaries and equipment attributable to any work on an existing facility or on real property which does not result in a physical net increase in usable square footage, use or programs, implementation of the community gardens policy of the Plan, implementation of the urban forestry policy set forth in the Plan, and includes the sustained maintenance and volunteer coordination program mandated in subsection (f). The remainder of the Fund ("Remainder of the Fund") shall be allocated according to the following schedule:
- 1. Acquisition And Development. At least 40 percent of the Remainder of the Fund shall be allocated for the acquisition and development of real property. In allocating funds between acquisition and development, it shall be the policy of the Recreation and Park Department particularly to pursue acquisition at the beginning of the 15-year program created by this section, in order to take full advantage of short-term opportunities to acquire properties before their values increase.

As used herein, "acquisition" includes, but is not limited to, purchase, lease, exchange, eminent domain, permission for use and any other right, whether revocable or not, to use real property, or any interest therein or improvement or development rights thereon, for recreational purposes; provided that notwithstanding anything herein to the contrary, no acquisition of less than fee simple title may be for a term of less than ten years.

As used herein, "development" includes, but is not limited to, designing specific parks or facilities for which monies have been allocated for acquisition and development under this subsection, establishment of trails, implementation of the community gardens policy of the Plan, implementation of the urban forestry policy set forth in the Plan, and establishment and funding of recreational programs other than after school recreation programs in high need areas as defined in the Plan; provided that in any given year no more than five percent of the Remainder of the Fund may be used for such recreational programs.

2. Renovation. At least 15 percent of the Remainder of the Fund shall be allocated for renovation. As used herein, "renovation" means salaries and equipment attributable to any work on any existing facility or real property under the jurisdiction

San Francisco Charter Section 16.107

of the Recreation and Park Commission which results in a physical net increase in

usable square footage, use or program.

3. Maintenance And Administration. Up to 25 percent of the Remainder of the Fund shall be allocated for maintenance of real property and recreational facilities acquired pursuant to this subsection subsequent to 1990-1991; for programs other than those specified in paragraph (4) of this subsection; and for administration of the Fund. Monies allocated pursuant to this subsection may be used for the maintenance of recreational facilities on real property under the jurisdiction of any City agency that has made it available for use as a recreational facility.

As used herein, "maintenance" means salaries and equipment attributable to any work on any existing facility or on real property which does not result in a physical net increase in usable square footage, use or programs, implementation of the community gardens policy of the Plan, implementation of the urban forestry policy set forth in the Plan, and includes a sustained maintenance and volunteer coordination program.

4. After-School Recreation Programs. Twenty percent of the Remainder of the Fund shall be used for the operation of after school recreation programs.

5. Banking Of Funds. Monies may be allocated under any paragraph of this subsection to be set aside for expenditure on specifically identified projects in future years; however, such monies shall not count against any allocation required by this subsection. If such monies are not spent on the project for which they were set aside, they shall be returned to the Fund and be reallocated consistent with this subsection.

- 6. Annual Transfer And Adjustment Of Allocations. In any given year, 15 percent of the remainder of the Fund may be transferred from Acquisition and Development to Renovation, if such transfer is necessary to take advantage of a special, one-time renovation opportunity that will result in savings which would otherwise not be possible. In any given year, seven and one-half percent of the Remainder of the Fund may be transferred from Renovation to Acquisition and Development if such transfer is necessary to take advantage of a special, one-time Acquisition or Development opportunity, that will result in savings which would otherwise not be possible. However, such transfers may not result in the inconsistency of any five-year average of allocations for either Acquisition and Development or Renovation with the provisions of paragraphs (a) or (b) of this subsection. Any adjustments pursuant to this paragraph, and their consequences on any five-year average of allocations, must be included in the annual report.
- 7. Five Year Renovation And Maintenance Plans. The Park and Open Space Advisory Committee shall recommend, and the Recreation and Park Commission shall adopt, five-year plans for Acquisition and Development, Renovation and Maintenance, which shall implement the plan and programs, and with which expenditures under this subsection shall be consistent. These plans shall be updated annually, except that they should not be amended or updated as part of the annual budget process.
- 8. Reversion Of Uncommitted Funds. Notwithstanding any other provisions of this section, any funds set aside pursuant to this subsection that are not allocated at the end of any fiscal year, together with accrued interest, shall be carried forward to the next fiscal year and shall be appropriated by the Board of Supervisors for any of the purposes enumerated in this section.

9. Prohibition Of Reallocation Of Fund. Except as specifically and explicitly permitted in subsection (d)(6), the allocation of the Fund may not be amended,

adjusted or changed.

(e) The Planning Commission and Recreation and Park Commission shall hold at least one joint public hearing annually at which they shall receive and review an annual report from the General Manager of the Recreation and Park Department on the implementation of this section and the acquisition, development, renovation and maintenance of open space and recreational facilities, and the funding of after-school and other recreation programs during the preceding year.

The annual report shall, at a minimum, include the following information:

- 1. The amount of monies and percentage of the Fund allocated and spent in each of the allocation categories set forth in subsection (d);
- 2. The projects, on a site-by-site basis that were undertaken or paid for, in part or in whole, with monies from the Fund;
- 3. For each project, the total cost and percentage of the total cost that was spent for design, construction and management; and,
- 4. For each project, the time between the date funds became available and the date the project was completed, or if not completed, the percentage of completion at the time of the report and the anticipated date of completion.
- (f) Sustained Maintenance And Volunteer Coordination Program. In order to better fulfill the goals and purposes of the Plans and Programs and of this section by reducing ongoing and future maintenance costs, the Recreation and Park Department shall use monies allocated pursuant to paragraph (3) of subsection (d) to:
- 1. Prepare written guidelines for the design of new parks and open spaces and the renovation or rehabilitation of existing parks and open spaces which require low maintenance, ecological appropriateness (i.e. use of native species, low water usage), and self-sustaining landscapes and landscaping; and
- 2. Establish and fund an office of volunteer coordination which will organize, train and coordinate a City-wide volunteer program to assist City residents and gardeners in the maintenance, supervision and clean-up of parks, playgrounds and open spaces.
- (g) Park And Open Space Advisory Committee. The Fund shall be administered by the Recreation and Park Commission with the advice of the Park and Open Space Advisory Committee. As part of the allocation process for the first year after this section takes effect, the Committee and the Recreation and Park Department shall adopt a five-year plan for allocation of the Fund in compliance with subsection (d). This five year plan shall be updated for another year during each subsequent annual allocation process.

The Committee shall consist of 23 members, each appointed to a two-year term, as follows:

- 1. One member appointed by the Mayor;
- 2. One member appointed by each Supervisor and approved by the Board of Supervisors; and
- 3. A second member appointed by each Supervisor, and approved by the Board of Supervisors, from a list of individuals representing citizens' organizations which have as a major goal the preservation and enhancement of San Francisco's parks, open space and natural environment; persons on this list shall be nominated only by a qualifying organization.

San Francisco Charter Section 16.107

The Committee shall choose its own chair, and establish its own rules of order. A quorum shall be a majority of the members of the Committee.

The Committee shall hold regularly scheduled meetings. The Committee shall send a schedule of all Committee meetings for the calendar year to any person who so requests in writing.

#### SEC. 16.108. CHILDREN'S FUND.

- (a) There is hereby established a fund to expand children's services, which shall be called the Children's Fund and shall be maintained separate and apart from all other City and County funds and appropriated by annual or supplemental appropriation. Monies therein shall be expended or used solely to provided expanded services for children as provided in this section.
- (b) There is hereby set aside for the Fund, from the revenues of the property tax levy, revenues in an amount equivalent to an annual tax of one and one-quarter cents (\$.0125) per one hundred dollars (\$100) of assessed valuation for the first fiscal year which begins 90 days or more after the election which approves this section, and revenues equivalent to an annual tax of two and one half cents (\$.025) per one hundred dollars (\$100) of assessed valuation for each of the following nine fiscal years. The Treasurer shall set aside and maintain such amount, together with any interest earned thereon, in the Fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of this Charter, shall be appropriated then or thereafter for the purposes specified in this section.
- (c) Monies in the Fund shall be used exclusively to provide services to children less than 18 years old, above and beyond services funded prior to adoption of this section. To this end, monies from the Fund shall not be appropriated or expended to fund services provided during fiscal year 1991-1992, whether or not the cost of such services increases, or appropriated or expended for services which substitute for or replace services provided during fiscal years 1990-1991 or 1991-1992, except and solely to the extent of services for which the City ceases to receive federal, state or private agency funds, which the funding agency required to be spent only on the services in question.
- (d) Services for children eligible for Fund assistance shall include only child care; job readiness, training and placement programs; health and social services (including pre-natal services to pregnant adult women); education programs; recreation; delinquency prevention; and library services, in each case for children.

Services for children paid for by the Fund shall not include:

- 1. For example, and not for purposes of limitation, services provided by the Police Department or other law enforcement agencies; by courts, the District Attorney, Public Defender or City Attorney; by the Fire Department; detention or probation services mandated by state or federal law; or public transportation;
- 2. Any service which benefits children incidentally or as members of a larger population including adults;
- 3. Any service for which a fixed or minimum level of expenditure is mandated by state or federal law, to the extent of the fixed or minimum level of expenditure;
  - 4. Acquisition of any capital item not for primary and direct use by children;
- 5. Acquisition (other than by lease for a term of ten years or less) of any real property; or

- 6. Maintenance, utilities or any similar operating costs of any facility not used primarily and directly by children, or of any recreation or park facility (including a zoo), library, facility, or hospital.
- (e) During each fiscal year, a minimum of 25 percent of such funds shall be used for child care, a minimum of 25 percent for job readiness, training and placement, and a minimum of 25 percent for health and social services for children (including pre-natal services for pregnant adult women). Beginning with the fifth fiscal year during which funds are set aside under this section, the Board of Supervisors may modify or eliminate these minimum requirements.
- (f) No later than December of each calendar year, the Mayor shall prepare and present to the Board of Supervisors a Children's Services Plan. The Plan shall propose goals and objectives for the Fund for the fiscal year beginning the following July 1, propose expenditures of monies from the Fund for the fiscal year beginning the following July 1 and designate the City department which would administer the funded programs. In connection with preparation of the Plan, and prior to the date required for presentation to the Board of Supervisors, the Health Commission, Juvenile Probation Commission, Human Services Commission, Recreation and Parks Commission and Public Library Commission shall each hold at least one public hearing on the Plan. Joint hearings may be held to satisfy this requirement. Any or all of the commissions may also hold additional hearings before or after presentation of the Plan.
- The Fund shall be used exclusively to increase the aggregate City appropriations and expenditures for those services for children which are eligible to be paid from the Fund (exclusive of expenditures mandated by state or federal law). To this end, the City shall not reduce the amount of such City appropriations for eligible services (not including appropriations from the Fund and exclusive of expenditures mandated by state or federal law) in any of the ten years during which funds are required to be set aside under this section below the higher of the amount so appropriated for the fiscal year 1990-1991 or the amount so appropriated for the fiscal year 1991-1992, in either case as adjusted. Not later than three months after the election which approves this section, the Controller shall calculate and publish the applicable base amount, specifying by department and program each amount included in the base amount. The base amount shall be adjusted for each year after the base year, based on calculations consistent from year to year, by the percentage increase or decrease in aggregate City appropriations from the base year, as estimated by the Controller. Errors in the Controller's estimate of appropriations for a fiscal year shall be corrected by an adjustment in the next year's estimate. For purposes of this subsection, aggregate City appropriations shall not include funds granted to the City by private agencies or appropriated by other public agencies and received by the City. Within 90 days following the end of each fiscal year through 2001-2002, the Controller shall calculate and publish the actual amount of City appropriations for services for children which are eligible to be paid from the Fund (exclusive of expenditures mandated by state or federal law).

#### SEC. 16.109. LIBRARY PRESERVATION FUND.

(a) There is hereby established a fund for libraries, which shall be called the Library Preservation Fund and shall be maintained separate and apart from all other City and County funds and appropriated by annual or supplemental appropriation

San Francisco Charter Section 16.109

pursuant to this Charter. Monies therein shall be expended or used exclusively by the Library Department solely to provide library services and materials and to operate library facilities in accordance with this section.

- (b) So long as the Library Preservation Fund exists as provided in this section, the following requirements shall apply:
- 1. The Library Department shall operate no fewer than 26 branch libraries, a main library and a library facility for the blind (which may be at a branch or main library);
- 2. Not later than November 1, 1994, at least one public hearing shall be held at the main and each branch library, which at least one library commissioner shall attend and which shall receive the results of a survey of users' preferences as to the facility's operating hours;
- 3. Effective no later than January 1, 1995, the Library Commission shall establish service hours for the main and each branch library, which shall not be reduced during the five years beginning January 1, 1995; total annual average service hours shall be at least 1028 hours per week (that is, a level approximating the total service hours during fiscal year 1986-1987);
- 4. The public hearing process specified in paragraph 2 shall be repeated at five year intervals, being completed no later than November 1 of the year in question; and
- 5. Following the subsequent public hearings, the Library Commission may modify the individual and aggregate service hours established under paragraph 3, for the five-year period beginning January 1, 2000 or January 1,2005 respectively, based on a comprehensive assessment of needs and the adequacy of library resources.

Increasing library hours throughout the system and acquiring books and materials shall receive priority in appropriating and expending fund monies to the extent the funds are not needed to meet the preceding requirements of this subsection. Any requirement of this subsection may be modified to the extent made necessary by a fire, earthquake or other event which renders compliance with the requirement impracticable.

- (c) There is hereby set aside for the Library Preservation Fund, from the revenues of the property tax levy, the revenues in an amount equivalent to an annual tax of two-and-one-half cents (\$0.025) per one hundred dollars (\$100) of assessed valuation for each of the fifteen fiscal years beginning with fiscal year 1994-1995. The Treasurer shall set aside and maintain such amount, together with any interest earned thereon, in the Fund, and any amount unspent or uncommitted at the end of any fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of this Charter, shall be appropriated then or thereafter solely for the purposes specified in this section. The Fund shall be in addition to any other funds set aside for libraries.
- (d) The Fund shall be used to increase the aggregate City appropriations and expenditures for services, materials and operation of facilities provided by the Library Department. To this end, the City shall not reduce the amount of City appropriations for the Library Department (not including appropriations from the Library Preservation Fund) in any of the fifteen years during which funds are required to be set aside under this section below the amount so appropriated, including appropriations from the Children's Fund pursuant to this Charter and including all supplemental appropriations, for the fiscal year 1992-1993, adjusted as provided below. The base amount

shall be adjusted for each fiscal year after 1992-1993 based on calculations consistent from year-to-year, by the percentage increase or decrease in aggregate City appropriations for all purposes from the base year as estimated by the Controller. Errors in the Controller's estimate of appropriations for a fiscal year shall be corrected by adjustment in the next year's estimate. For purposes of this subsection, (i) aggregate City appropriations shall not include funds granted to the City by private agencies or appropriated by other public agencies and received by the City, and (ii) Library Department appropriations shall not include funds appropriated to the Library Department to pay for services of other City departments or agencies, except for departments or agencies for whose services the Library Department was appropriated funds in fiscal year 1993-1994. Within 90 days following the end of each fiscal year through fiscal year 2008-2009, the Controller shall calculate and publish the actual amount of City appropriations for the Library Department.

#### SEC. 16.110. REVENUES FOR PUBLIC TRANSIT.

It is the policy of the City and County of San Francisco to use parking-related revenues, where available, to support public transit. To the extent allowed by law, there is hereby set aside from the general revenues of the City and County for the operations and capital improvements of the Department of Public Transportation for each fiscal year an amount equivalent to the City and County's share of revenues realized from:

- 1. Parking meters, except those amounts to be credited to the off-street parking fund as provided in Traffic Code Section 213 and those amounts collected from parking meters operated by the Recreation and Park Department and the Port Commission:
- 2. City-owned off-street parking facilities, including facilities leased to private owners and non-profit corporations, except those amounts to be credited to the off-street parking fund or otherwise dedicated as provided in Traffic Code Section 213 and except those amounts generated from any parking on or below any land or facilities under the jurisdiction of the Recreation and Park Department;
- 3. Fines, forfeited bail, or penalties for parking violations, except those amounts to be credited to the courthouse construction fund as provided in Administrative Code Section 10.117-35; and,
- 4. The tax on occupation of parking spaces, except for the amounts attributable to any surcharges imposed since 1978 and except for the amounts set aside for senior citizens' programs as provided in Section 615 of Part III of the Municipal Code.

In determining the amounts to be credited to the off-street parking fund as set forth in subparagraphs (1) and (2) above, sufficient revenues shall be credited to such fund to ensure adequate funding for the purposes for which such fund was created, including without limitation the following: capital outlays for the acquisition of property, construction, completion, and leasing of public parking lots, storage space, garages, structures, and other off-street parking facilities; maintenance and operation of such parking facilities; public works improvements that increase the supply of onstreet parking; engineering and construction of on-street parking bays in parking meter districts in neighborhood commercial districts; installation and maintenance of on-and off-street parking meters; and the administration of the parking programs of the City and County.

San Francisco Charter

The Treasurer shall set aside and maintain said amounts, together with any interest earned thereon, in a special fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of the Charter, shall be appropriated then or thereafter for the purposes specified in this section.

To the extent allowed by law, the Board of Supervisors may, by ordinance, dedicate additional revenues to the department of public transportation from sources including, but not limited to, gas taxes, motor vehicle licensing taxes or other available motor vehicle-related revenue sources.

#### SEC. 16.111. FRANCHISES.

The Board of Supervisors shall have the power by ordinance to grant to any person, firm or corporation, any franchise, including any renewal, extension, transfer or amendment thereof, for the use of any public right-of-way or public place within the boundaries of the City for the purpose of providing services to customers. Franchises may be granted only by a competitive process. Each franchise shall contain a specific and definite termination date which shall not be more than 25 years after its first effective date.

# SEC. 16.112. CITIZEN PARTICIPATION; PUBLIC NOTICES, HEARINGS AND ACCESS TO PUBLIC DOCUMENTS.

The publication of and full public access to public documents, except for those subject to confidentiality, shall be as required by law.

Notice shall be published in a timely manner before any public hearing, and shall include a general description of said hearing.

Notice shall be given, and public hearings held before:

- (a) Any facility used by the public, including but not limited to libraries and health facilities, shall be closed, eliminated, or its level of services reduced, or prior to the leasing, selling or transfer of management of said facility;
- (b) Any significant change in the operating schedule or route of a street railway, bus line, trolley bus line or cable car line is adopted;
- (c) Any fee, schedule of rates, charges or fares which affects the public is instituted or changed; should any such action be approved, the result shall also be noticed; or
- (d) Any amendment to the general plan, change in zoning or change in land use is adopted.

In addition, notice shall be given for the following:

- (e) Any sale, lease, rental, encumbrance or exchange of real property held by the City and County;
  - (f) Special assessment districts and protests of special assessment districts;
- (g) Requests for bids or proposals for the purchase or lease of materials, supplies, equipment, services, construction, work or improvements involving expenditure of \$50,000 or more; notice shall also be given after any such award is made; the Board may by ordinance reduce the dollar threshold for such notice; and
  - (h) Polling places and precinct officers for any election.

#### SEC. 16.113. SEVERABILITY.

If any provision of this Charter, or its application to any person or circumstances is held invalid, the remainder of this Charter, and the application of such provision to other persons or circumstances, shall not be affected.

## SEC. 16.114. POWERS OF INQUIRY AND REVIEW.

The Mayor, the City Administrator, the Controller, or any board or commission appointed by the Mayor, relative solely to the affairs under its control, may require such periodic or special reports of departmental costs, operations and expenditures, examine the books, papers, records and accounts of, and inquire into matters affecting the conduct of any department or office of the City and County, and for that purpose may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. The Board of Supervisors shall have the same powers of inquiry and review, including the power to issue subpoenas and compel the production of evidence, with respect to matters affecting the conduct of any department or office of the City and County.

## SEC. 16.115. HEADING AND CAPTIONS.

The headings and captions in this Charter shall have no bearing on the meaning of the text, which shall be the exclusive source for interpretation and construction.

#### SEC. 16.116. APPENDIX A—EMPLOYMENT PROVISIONS.

The following sections of the Charter of 1932, as amended, shall remain in effect as a part of this Charter as "Appendix A—Employment Provisions," except that in instance of conflict or inconsistency between these sections of the Charter of 1932 and the body of this Charter, this Charter shall prevail, and subject to the following limitations and amendments:

- 1. All references to sections of "the Charter" or "this Charter" shall be construed to refer to the Charter of 1932, as defined above;
- 2. All definitions or descriptions included through such references shall remain in force, unless in conflict or inconsistent with definitions or descriptions in this Charter, or unless amended by the Board of Supervisors; and
- 3. Effective upon adoption of this Charter, references to "wife," "surviving spouse," "widow" or "widower" shall be construed to include "spouse," or "surviving spouse."

The following sections from the Charter of 1932, as amended, shall be included in Appendix A with full force and effect, and each shall be designated with a prefix "A":

7.204	Contractors' Working Conditions
8.329	Certification of Eligibles
8.341	Removal or Discharge of Permanent, Non- Probationary Employees
8.342—8.344	Disciplinary Suspensions; Police and Fire
	Department Suspensions; Exoneration of Charges
8.345—8.346	Disciplinary Action-Strikes
8.364	Catastrophic Sick Leave
8.4008.406	Salaries and Wages for Teachers, Muni,
	Police, Fire and Miscellaneous Employees

Section 16.116

8.409—8.409-6	Collective Bargaining
8.410—8.411	Expenses
8.420—8.429	Health Service System Benefits
8.430 [1st ¶]	"Medical Care" Defined
8.431—8.432	Health Service System Benefits
8.440—8.441	Vacations
8.450—8.452	Hours and Tours of Duty
8.500—8.517	Retirement System
8.518—8.588-15	Retirement System
8.590-1—8.590-7	Collective Bargaining for Fire, Police and
	Airport Police

The provisions of Appendix A may be amended only pursuant to the provisions of state law governing charter amendments.

#### SEC. 16.117. APPENDIX B—PORT AGREEMENTS.

The following sections from the Charter of 1932, as amended, shall be included in Appendix B with full force and effect, and each shall be designated with a prefix "B":

3.581—3.585	Port Transfer Agreement
6.406	Harbor Revenues and Expenditures
7.305	Revenue Bonds of the Port Commission

The provisions of Appendix B may be amended only pursuant to the provisions of state law governing charter amendments.

#### SEC. 16.118. APPENDIX C—ETHICS PROVISIONS.

The following sections of the Charter of 1932, as amended, shall be included in Appendix C with full force and effect, and each shall be designated with a prefix "C":

3.699-10—3.699-16	Ethics Commission Procedures
8.105	Conflict of Interest and Other Prohibited
	Practices

The provisions of Appendix C may be amended only pursuant to the provisions of state law governing charter amendments.

#### SEC. 16.119. APPENDIX D—BUILDING INSPECTION PROVISIONS.

The following sections from the Charter of 1932, as amended, shall be included in Appendix D with full force and effect, and each shall be designated with a prefix "D":

3.750—3.750-8 Department of Building Inspection.

The provisions of Appendix D may be amended only pursuant to the provisions of state law governing charter amendments.

CH-91 (3-99)

#### SEC. 16.120. CUSTOMER SERVICE PLAN.

Each department of the City and County shall adopt an annual Customer Service Plan, in a format to be determined by the Board of Supervisors by ordinance. The Board may excuse a department from particular requirements of the ordinance where compliance would be inappropriate or impractical. Each department shall file its Customer Service Plan with the Board of Supervisors no later than February 1st of each year, along with a report on how the department met the previous year's Plan, if any. (Added November 1998)

(3-99) CH-92

#### ARTICLE XVII

#### **DEFINITIONS**

For all purposes of this Charter, the following terms shall have the meanings specified below:

"Business day" shall mean any day other than a Saturday, Sunday or holiday on which governmental agencies are authorized by law to close.

"Confirm" or "confirmation" shall mean the approval by a majority of the members of the Board of Supervisors.

"Discrimination" shall mean violations of civil rights on account of race, color, religion, creed, sex, national origin, ethnicity, age, disability or medical condition, political affiliation, sexual orientation, ancestry, marital or domestic partners status, gender identity, parental status, other non-merit factors, or any category provided for by ordinance.

"Domestic partners" shall mean persons who register their partnerships pursuant to the voter-approved Domestic Partnership Ordinance.

"Elector" shall mean a person registered to vote in the City and County.

"For cause" shall mean the issuance of a written public statement by the Mayor describing those actions taken by an individual as a member of a board or commission which are the reasons for removal, provided such reasons constitute official misconduct in office.

"General municipal election" shall mean the election to be held in the City and County on the Tuesday immediately following the first Monday in November in odd-numbered years.

"Initiative" shall mean (1) a proposal by the voters with respect to any ordinance, act or other measure which is within the powers conferred upon the Board of Supervisors to enact, any legislative act which is within the power conferred upon any other official, board, commission or other unit of government to adopt, or any declaration of policy; or (2) any measure submitted to the voters by the Mayor or by the Board of Supervisors, or four or more members of the Board.

"Notice" shall mean publication in an official newspaper (as defined by ordinance), and a contemporaneous filing with the Clerk of the Board of Supervisors or other appropriate office.

"Official misconduct" shall mean any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any willful or corrupt failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required of all public officers.

"One-third," "a majority" or "two-thirds" of the Board of Supervisors or any other board or commission of the City and County shall mean one-third, a majority or two-thirds of all members of such board or commission.

"Published" shall mean published in an official newspaper of the City and County.

"Referendum" shall mean the power of the voters to nullify ordinances involving legislative matters except that the referendum power shall not extend to any portion of the annual budget or appropriations, annual salary ordinances, ordinances authoriz-

CH-93 (12-96)

ing the City Attorney to compromise litigation, ordinances levying taxes, ordinances relative to purely administrative matters, ordinances necessary to enable the Mayor to carry out the Mayor's emergency powers, or ordinances adopted pursuant to Section 9.106 of this Charter.

"Special municipal election" shall mean, in addition to special elections otherwise required by law, the election called by (1) the Director of Elections with respect to an initiative, referendum or recall, and (2) the Board of Supervisors with respect to bond issues, election of an official not required to be elected at the general municipal election, or an initiative or referendum.

"Statewide election" shall mean an election held throughout the state.

"Voter" shall mean an elector who is registered in accordance with the provisions of state law.

(12-96) CH-94

#### ARTICLE XVIII

#### TRANSITION PROVISIONS

#### SEC. 18.100. EFFECTIVE DATE OF THIS ARTICLE XVIII.

This Article XVIII shall take effect upon the filing of this Charter with the Secretary of State of the State of California. This Article, and each individual section, shall expire and go out of existence when the last act, required to be done in this Article, or individual section, has been completed; and, thereafter, the Clerk of the Board of Supervisors shall secure its removal from the next printing of this Charter.

# SEC. 18.101. OPERATIVE DATE OF THIS CHARTER; EFFECT OF ENACTMENT ON EXISTING LAW.

This Charter shall be operative July 1, 1996, and on that date shall supersede the Charter of 1932. Any authority vested in the Mayor to remove commissioners and department heads not granted in the Charter of 1932 shall be effective July 1, 1997. All references in this Article to the "Charter of 1932" shall be to the Charter of 1932, as recodified in 1971, and as amended as of December 31, 1995.

To the extent the provisions of this Charter are the same in terms or in effect as provisions of the Charter of 1932, they shall be construed and applied as a continuation of those provisions.

All provisions of local law relating to or affecting the City and County in force when this Charter becomes operative are hereby repealed and superseded only to the extent they are inconsistent with the provisions of this Charter.

Any amendments to the Charter of 1932 adopted at the November 7 1995, election shall be incorporated into this Charter and shall supersede any conflicting provisions, even if the amendments receive fewer votes than this Charter. The Clerk of the Board of Supervisors, in consultation with the City Attorney, shall conform the format and terminology of the amendments to this Charter.

In adopting this revised Charter, the voters do not intend to amend or otherwise affect the provisions of any initiative ordinance in effect on the date this revision is adopted, including the Initiative Refuse Collection and Disposal Ordinance, adopted November 8, 1932, as amended, except that the City Administrator and the General Manager of Public Utilities shall succeed to the functions of the Chief Administrative Officer and the Manager of Utilities, respectively, as specified in that Initiative Ordinance.

The Retirement Board shall continue to exercise powers of management and control of workers' compensation programs until those functions are transferred pursuant to previously adopted ordinances to the Department of Human Resources.

#### SEC. 18.102. OBLIGATIONS OF CONTRACT NOT IMPAIRED.

All rights, claims, actions, orders, obligations, proceedings, bond authorizations and contracts existing on the operative date of this Charter shall not be affected by the adoption of this Charter, except that where functions, powers and duties have been reassigned, the office, agency or department to which the assignment is made shall have charge of the matter.

San Francisco Charter

# SEC 18.103. TRANSFER OF 1932 CHARTER SECTIONS TO ORDINANCE AND INITIATIVE ORDINANCES.

The following sections of the Charter of 1932 shall be deemed enacted into ordinance and may be amended by the Board of Supervisors on the operative date of this Charter; provided, however, that in the instance of conflict or inconsistency between the ordinance or a portion of the ordinance and this Charter, this Charter shall prevail:

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1.103
2.101
2.203
2.203-3
3.100, paragraph 8, sentences 5—6
3.201
3.301-3.303, inclusive
3.402
3.501
3.502
3.523
3.529
3.531
3.533—3.535, inclusive 3.537—3.539, inclusive
3.540-3.547, inclusive
3.551—3.552
3.560
3.570-3.572, inclusive
3.590—3.599, inclusive
3.601
3.621—3.624, inclusive
3.631, 3.632, and 3.634
3.640-3.641, inclusive
3.642, second sentence only
3.680, third paragraph only
3.691—3.694, inclusive
3.698.1—3.698.3, inclusive
3.699-2
3.707
6.207
6.300—6.304, inclusive
6.306—6.310, inclusive
6.312---6.313
6.400—6.403, inclusive
6.407-6.408, inclusive
6.410
7.100—7.104, inclusive
7.200-7.203, inclusive
7.205—7.206, inclusive
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San Francisco Charter

7.304
7.306
7.308
7.400—7.405, inclusive
7.600—7.606, inclusive
7.701—7.703, inclusive
8.104
8.106
8.311
8.410—8.411
9.104, fifth paragraph only
9.113—9.115, inclusive

Ordinances and policy declarations adopted by the voters shall not be published as part of this Charter, in an appendix or otherwise, but shall be published as provided in this Charter for other ordinances, and shall be included in any codification of ordinances as provided in this Charter and be designated as initiative ordinances.

## SEC. 18.104. TRANSFER OF FUNCTIONS, POWERS AND DUTIES.

On the operative date of this Charter, all offices, agencies and departments of the City and County then in existence under the Charter of 1932 shall continue to perform their functions, exercise their authority and fulfill their responsibilities, as they existed immediately before this Charter's becoming operative subject to the provisions of this Article. Not later than 90 days after the operative date of this Charter, each such office, agency and department for which this Charter does not provide shall cease to exist, and its functions, powers and duties shall be transferred to the appropriate governmental unit created by this Charter or under the authority of this Charter. The Board of Supervisors and the Mayor shall take all action necessary to provide for the orderly transfer of functions, authority and responsibility on or before the date of such transfer.

#### SEC. 18.105. CHANGES IN OFFICES AND POSITIONS.

The Chief Administrative Officer and the Controller serving on November 7, 1995, shall be appointed to the offices, respectively, of City Administrator and Controller. These offices shall have the functions, powers and duties assigned by this Charter, and their initial terms of office in effect immediately prior to the date of this Charter shall remain unchanged, except that the term of office of the City Administrator shall be five years from the incumbent's appointment as Chief Administrative Officer.

The Clerk of the Board of Supervisors serving on November 7, 1995, shall be appointed as Clerk of the Board of Supervisors. This position shall remain a classified position as long as the person holding the position on November 7, 1995, remains in this position.

The Secretary-General Manager of the Retirement System serving on November 7, 1995, shall succeed to the position of executive director. This position shall remain a classified position as long as the person holding the position on November 7, 1995, remains in this position.

The General Manager of the Department of Social Services shall succeed to the position of executive director of the Department of Human Services.

The offices of Assessor and Recorder shall be consolidated no earlier than July 1, 1997. Prior to that date, the functions, powers and duties of the Recorder shall continue to be performed by the Recorder-County Clerk, as that office is established in the Charter of 1932. After July 1, 1997, the functions, powers and duties of the County Clerk shall be transferred to the City Administrator and the functions, powers and duties of the Recorder shall be transferred to the Assessor-Recorder. The person holding office as Recorder-County Clerk at the time of the transfer shall become a deputy department head to the Assessor-Recorder, and shall maintain his or her classified status.

The Social Services Commission shall succeed to the Human Services Commission.

On the operative date of this Charter, the City Administrator shall be responsible for the following functions until they are reassigned by the Mayor, with approval by the Board of Supervisors, or by operation of this Charter: Department of Public Works, Government Services, Purchasing, Real Estate, Electricity and Telecommunication, Public Guardian, Convention Facilities, Animal Control, County Clerk/Recorder, County Agriculture, Weights and Measures and Registrar of Voters/Department of Elections; Medical Examiner; and all projects previously assigned by ordinance to the Chief Administrative Office, including but not limited to: George R. Moscone Center Project, Clean Water program, Publicity and Advertising Fund, Risk Management, Beautification project, EIPSC, Waterfront project and Solid Waste Management.

#### SEC. 18.106. OFFICIAL FIDELITY BONDS.

The Board of Supervisors shall determine the initial fidelity bond requirements under this Charter within 90 days after the operative date of this Charter. Until the Board of Supervisors determines such requirements for officials of the City and County, the bonds existing on the operative date of this Charter shall be maintained.

#### SEC. 18.107. RULES, REGULATIONS AND ADMINISTRATIVE CODE.

Each officer, department, agency, board and commission responsible for rules and regulations of the City and County under this Charter shall, within 90 days of the operative date of this Charter, review all rules and regulations for which it is responsible and amend and adopt rules and regulations consistent with this Charter.

#### SEC. 18.108. STATUS OF INCUMBENT OFFICERS AND EMPLOYEES.

The changes in and transfers of functions, powers and duties which occur at the time this Charter becomes operative shall not affect or impair the rights or privileges of permanent civil service officers or employees of the City and County relating to appointment, rank, grade, compensation, tenure of office, promotion, discipline, removal, pensions and retirement, except as provided in this Charter.

Whenever a position previously within the classified municipal civil service is, pursuant to this Charter, designated exempt from the civil service provisions of this Charter, the permanent civil service incumbent in such position at the time this Charter becomes operative shall continue to have civil service status in that position under the civil service provisions of this Charter.

San Francisco Charter Section 18.108

If by the terms of this Charter, or action taken by authority of this Charter:

1. All or substantially all of the duties of any position exempt from the civil service provisions of the Charter of 1932 are transferred to another office, agency or department, that position shall be transferred to that office, agency or department and the person holding the position on the operative date of this Charter shall be transferred with the position.

2. All or substantially all of the duties of any civil service position are transferred to another office, agency or department, that position shall be transferred to that office, agency or department and the permanent civil service appointee holding the position on the operative date of this Charter shall be transferred with the position.

#### SEC. 18.109. EXEMPT POSITIONS.

The Board of Supervisors and the Mayor, through the budget for the fiscal year ending June 30, 1996, shall designate the positions exempt from civil service, within the categories provided in Article X of this Charter.

#### SEC. 18.110. PROVISIONAL APPOINTMENTS.

Unless their appointments are renewed pursuant to the provisions of Section 10.105, the employment of all provisional employees, appointed under the Charter of 1932, whose appointment does not meet the provisions of this Charter, shall be terminated within three years of the operative date of this Charter in accordance with the rules and regulations governing layoffs. Such provisional employees may qualify for certification as eligibles under rules and regulations expressly authorized by civil service rules approved by the Board of Supervisors. Such rules may establish special credit for civil service examinations for years of service or, through other methods, recognize the service of such employees who have held such employment for more than six months at the operative date of this Charter.

#### SEC. 18.111. ASIAN ART MUSEUM STATUS.

During such time as the Asian Art Museum is located in a wing of the M. H. de Young Memorial Museum, the Commission shall control and manage the collections housed in that wing as provided for in the July 2, 1969 Management Agreement between the Committee of Asian Art and Culture and the Board of Trustees of the de Young Museum, a copy of which is on file with the Clerk of the Board of Supervisors.

#### SEC. 18.112. PREPARATION AND INDEXING OF THIS CHARTER.

The City Attorney shall correct typographical errors and prepare an index prior to the operative date and publication of this Charter.

#### SEC. 18.113. MISSION-DRIVEN BUDGET PHASE-IN.

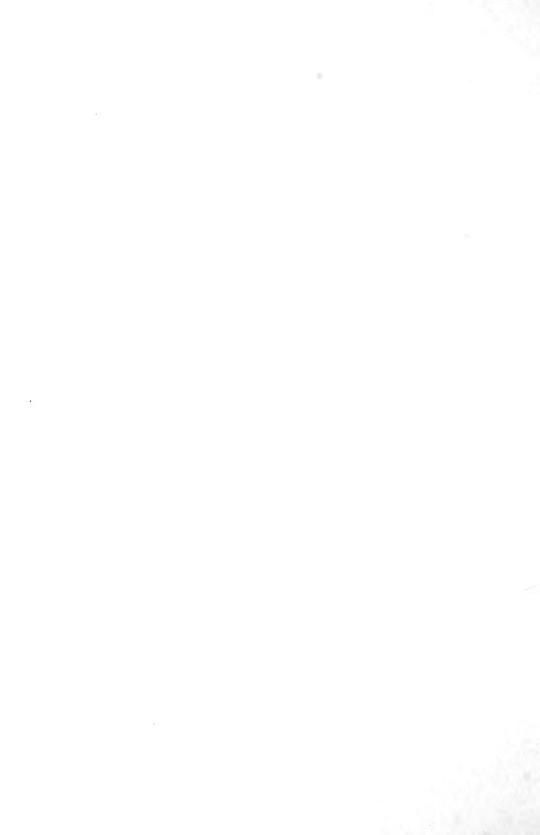
The mission-driven budget process shall be phased in over a three-year period with the Mayor identifying for each of the three years approximately one-third of the City departments that shall thenceforth be required to comply with the requirements of Sections 9.114, 9.115 and 9.116.

Section 18.114 San Francisco Charter

## SEC. 18.114. COMMISSION TERMS.

Whenever a new board or commission is created in this Charter, or additional members are added to an existing board or commission, the Mayor shall appoint the initial members to staggered terms.





# **APPENDICES**

		Page
Appendix A	Employment Provisions	. CH-103
Appendix B	Port Agreements	. CH-265
Appendix C	Ethics Provisions	. СН-273
Appendix D	Building Inspection Provisions	. CH-285



## APPENDIX A

# **EMPLOYMENT PROVISIONS\***

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.



#### A7.204 CONTRACTORS' WORKING CONDITIONS

Every contract for any public work or improvement to be performed at the expense of the city and county, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under subcontract, subpartnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide:

- (a) that in the performance of the contract and all work thereunder, eight hours shall be the maximum hours of labor on any calendar day, except that hours of labor in excess of eight hours per day may be permitted when conditions so warrant upon the approval of the department head responsible for the supervision of the contract, provided that compensation for all hours worked in excess of eight hours per day conforms to the requirements of the Labor Code of the State of California and all applicable federal laws;
- (b) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; however, the Board of Supervisors may by resolution exempt from the prevailing wage requirement any contract where the work is to be performed by a non-profit organization that provides job training and work experience for disadvantaged individuals in need of such training and experience, and either (1) has a board of directors which is appointed by the Mayor, or (2) exists primarily to design and build urban gardens, yards and play areas;
- (c) that any person performing labor in the execution of the contract shall be a citizen of the United States;
- (d) that all laborers employed in the execution of any contract within the limits of the city and county shall have been residents of the city and county for a period of one year immediately preceding the date of their engagements to perform labor thereunder; provided, however, that the officer empowered to award any such contract may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

The term "public work" or "improvement," as used in this section shall, include the fabrication, manufacturing or assembling of materials in any shop, plant, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the particular work or improvement and any arrangement made for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a subcontract subject to the provisions of this section.

The board of supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed 10 percent shall be allowed in favor of such materials as are to be manufactured, fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any subcontractor or materialman for the purpose of supplying the same to any contractor bidding on or performing any

CH-105 (9-%)

contract for any public work or improvement, said sub-contractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufactured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the board of supervisors by ordinance so provide. When any ordinance shall so provide any officer, board or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding 10 percent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco.

#### A8.329 CERTIFICATION OF ELIGIBLES

Whenever a position controlled by the civil service provisions of this Charter is to be filled, the appointing officer shall make a requisition to the department of human resources for a person to fill it. Thereupon, the department shall certify to the appointing officer the names and addresses of all those persons meeting the certification rule established for that classification. The Civil Service Commission shall establish certification rules. Certification rules shall not be more restrictive than the certification of all candidates receiving the three highest scores on the list of eligibles for such positions. The appointing officer shall fill the position by the appointment of one of the persons certified. In making such certification, sex shall be disregarded except when a statute, rule of the commission or the appointing officer specifies sex; provided however, the appointing officer shall give due consideration to applicable civil service equal employment opportunity (EEO) goals so as to maximize diversity at all levels of city employment. The Mayor and the Board of Supervisors shall annually review each department's performance in meeting its civil service EEO obligations.

From the requisition of the appointing officer or otherwise, the department shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment. The department shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

Notwithstanding anything to the contrary in this or any other provision of the charter, an employee who has been certified from a regularly adopted eligible list to a non-permanent position in a civil service classification shall be entitled to appointment to a permanent position within that same classification before the department certifies to the appointing officer the names and addresses of persons standing higher on the list of eligibles who are not then current employees, subject to a demonstration of satisfactory job performance in the non-permanent position for a period and in the manner provided by rule of the commission. The provisions of this section as herein amended shall only be applicable to requisitions for permanent positions filled from and after January 1, 1980.

## A8.341 REMOVAL OR DISCHARGE OF PERMANENT, NON-PROBATIONARY EMPLOYEES

A. Any person employed under the civil service provisions of this charter,

(9-96) CH-106

exclusive of members of the uniformed ranks of the police and fire departments as provided under Section 8.343 hereof, in a position defined by the commission as "permanent" may be removed or discharged by the appointing officer for just cause, after being provided with written notice of the charges, copies of all documentation upon which the charges are based and after an opportunity to respond to the charges before the appointing officer or his or her designee. Pending investigation of conduct involving misappropriation of public funds or property, misuse or destruction of public

CH-106.1 (9-96)



property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety the appointing officer may place the accused person on unpaid administrative leave for no more than 30 days unless the investigation shall be delayed beyond such time by the act of the accused person. When the appointing officer imposes discharge or removal he or she shall, in writing, notify the person removed or discharged of the right to appeal the discharge or removal by mailing such statement to his last known address. The employee shall have thirty days from the date of mailing of the notice to file an appeal of the matter in writing with the appointing officer. Upon receipt of a timely appeal, the appeal shall be conducted forthwith by a qualified and unbiased hearing officer who shall be employed under contract by the city and county and selected by procedures set forth in the rules of the civil service commission. The hearing officer shall publicly hear and determine the appeal, and may approve the discharge or removal, or exonerate, or suspend the accused.

If the employee is exonerated the hearing officer may, at his or her discretion, order payment of salary to the employee for the period of the discharge or removal or unpaid administrative leave, and the report of such period of discharge or removal or unpaid administrative leave shall thereupon be expunged from the record of service of such employee.

The civil service commission shall immediately be notified of the charges when made, of the action of the appointing officer to remove or discharge, of the appeal, and of the finding thereon. The finding of the hearing officer shall be final.

The civil service commission may remove or discharge an employee for any charge filed by a citizen or by any member of or authorized agent of the commission when the appointing officer neglects or refuses to take such action against the employee within 30 days of notification to the department head of the occurrence or event giving rise to the charge. Removal or discharge may be made for any cause after the employee is provided with written notice of the charges, copies of all documentation upon which the charges are based and after the employee has had the opportunity to respond to the charges before the civil service commission or its designee. The decision of the civil service commission shall be final.

Nothing in this section shall limit or restrict rules adopted by the commission governing dismissal of probationary employees, lay-offs or reduction in force or providing for the removal of any appointee who has abandoned his or her position as defined by civil service commission rule.

B. Notwithstanding the provisions of Subsection A above, a recognized employee organization and any affected city department may agree to alternative procedures, including final and binding arbitration by a neutral arbitrator jointly selected by the employee organization and the city, to deal with charges brought against individual employees, the resolution of such charges and the appropriate discipline, if any, to be imposed on the employee. Said alternative procedures shall be included in a Memorandum of Understanding between the city and the employee organization which shall be effective when ratified by the board of supervisors.

#### A8.342 DISCIPLINARY SUSPENSIONS

The appointing officer may, for disciplinary purposes, suspend a subordinate for a period not exceeding 30 days; and suspension shall carry with it the loss of salary for the period of suspension. The suspended employee shall be notified in writing of the reason for such suspension, and if the suspension be for more than five days the employee shall, at his request, be given a hearing by the appointing officer. The decision of the appointing officer in all cases of suspension for disciplinary purposes shall be final.

# A8.343 FINE, SUSPENSION AND DISMISSAL IN POLICE AND FIRE DEPARTMENTS

Members of the uniformed ranks of the fire or the police department guilty of any offense or violation of the rules and regulations of their respective departments. shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by suspension for not to exceed three months, or by dismissal, after trial and hearing by the commissioners of their respective departments; provided, however, that the chief of each respective department for disciplinary purposes may suspend such member for a period not to exceed 10 days for violation of the rules and regulations of his department. Any such member so suspended shall have the right to appeal such suspension to the fire commission or to the police commission, as the case may be, and have a trial and hearing on such suspension. Written notice of appeal must be filed within 10 days after such suspension and the hearing of said appeal must be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or alter the finding of the chief, it shall in the case of a reversal and in other cases it may in its discretion, order that the member affected be paid salary for the time of his suspension. In the event the chief should exercise such power of suspension, the member involved shall not be subject to any further disciplinary action for the same offense.

Subject to the foregoing, members of the uniformed ranks of either department shall not be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for cause, nor until after a fair and impartial trial before the commissioners of their respective departments, upon a verified complaint filed with such commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense.

#### A8.344 EXONERATION OF CHARGES

If, as provided for in Section 8.343 a member of the uniformed ranks of the police and fire departments is suspended by the chief of the respective department pending hearing before the police or fire commission for charges filed against him and subsequently takes a leave of absence without pay pending his trial before the commission, and, if after such trial he is exonerated of the charges filed against him, the commission may, at its discretion, remit the suspension and leave of absence without pay and may order payment of salary to such member for the time under suspension and on leave of absence without pay, and the report of such suspension

and leave of absence without pay shall thereupon be expunged from the record of service of such member.

## A8.345 DISCIPLINARY ACTION AGAINST STRIKING EMPLOYEES

The people of the City and County of San Francisco hereby find that the instigation of, or participation in, strikes against said city and county by any member of the uniformed forces of the police or fire departments constitutes a serious threat to the lives, property and welfare of the citizens of said city and county and hereby declares as follows:

No uniformed member of the police and fire departments employed under the civil service provisions of this charter shall instigate, participate in, or afford leadership to a strike against the city and county, or engage in any picketing activity in furtherance of such a strike. In the event of any such strike against the city and county, it shall be the duty of the appropriate appointing officer of the city and county to ascertain the identity of any officer or employee of the city and county under his jurisdiction who is in violation of the provisions of this section and to initiate dismissal proceedings against said officer or employee in accordance with the provisions of Section 8.341 of this chapter. Any citizen of the city and county may file written charges against an officer or employee in violation of the provisions of this section and the appropriate appointing officer shall receive and investigate, without delay, any such written charge, and forthwith inform said citizen of findings and action, or proposed action, thereon.

If the appointing officer, after a hearing, determines that the charges are supported by the evidence submitted, said appointing officer shall dismiss the employee involved and said employee shall not be reinstated or returned to City and County of San Francisco employment except as a new employee who is employed in accordance with the regular employment practices of the city and county in effect for the particular position of employment.

In the event any appointing officer determines that he shall be unable to meet constitutional due process requirements in providing a timely hearing to any officer or employee charged hereunder, he may, subject to the budget and fiscal provisions of the charter, engage the services of one or more qualified hearing officers to conduct hearings hereunder. In conducting said hearings, any hearing officer shall have the same powers as granted to an appointing officer hereunder.

No officer, board or commission of the city and county shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

In order to bring the provisions of this section to the attention of any person who may be affected thereby, each member of the uniformed force of the police department and each member of the uniformed force of the fire department on the effective date of this section, and each person appointed to the position of Q2 police officer or the position of H2 fireman on or after the effective date of this section shall be furnished a copy of the provisions of this section and shall make under oath and file in the office of the civil service commission the following declaration: "I hereby acknowledge receipt of a copy of the provisions of Section 8.345 of the charter of the City and County of San Francisco and hereby declare that during the term of my employment in either the Police Department or the Fire Department of said City and County,

I shall neither instigate, participate in or afford leadership to a strike against said City and County nor engage in any picketing activity in furtherance of such a strike."

A dismissal imposed pursuant to this section (8.345) shall not be appealable to the civil service commission.

# A8.346 DISCIPLINARY ACTION AGAINST STRIKING EMPLOYEES OTHER THAN MEMBERS OF POLICE AND FIRE DEPARTMENT

The people of the city and county of San Francisco hereby find that the instigation of or participation in, strikes against said city and county by any officer or employee of said city and county constitutes a serious threat to the lives, property, and welfare of the citizens of said city and county and hereby declare as follows:

- (a) As used in this section the word "strike" shall mean the willful failure to report for duty, the willful absence from one's position, any concerted stoppage or slowdown of work, any concerted interruption of operations or services by employees, or the willful abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions of employment; provided, however, that nothing contained in this section shall be construed to limit, impair, or affect the right of any municipal employee to express or communicate a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of municipal employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.
- (b) No person holding a position by appointment or employment under the civil service provisions of this charter, exclusive of uniformed members of the police and fire departments as provided under Section 8.345 of this charter, which persons are hereinafter referred to as municipal employees, shall strike, nor shall any municipal employee cause, instigate, or afford leadership to a strike against the city and county of San Francisco. For the purposes of this section, any municipal employee who willfully fails to report for duty, is willfully absent from his or her position, willfully engages in a work stoppage or slowdown, willfully interrupts city operations or services, or in any way willfully abstains in whole or in part from the full, faithful, and proper performance of the duties of his or her employment because such municipal employee is "honoring" a strike by other municipal employees, shall be deemed to be on strike.
- (c) No person exercising any authority, supervision, or direction over any municipal employee shall have the power to authorize, approve, or consent to a strike by any one or more municipal employees, and such person shall not authorize, approve, or consent to such strike. No officer, board, commission or committee of the city and county of San Francisco shall have the power to grant amnesty to any person who has violated any of the provisions of this section, and such officer or bodies shall not grant amnesty to any person who has violated any of the provisions of this section.
- (d) Notwithstanding any other provision of law, a person violating any of the provisions of this section may subsequent to such violation be appointed or reappointed, employed or re-employed as a municipal employee of the city and county of San Francisco, but only on the following conditions:

- (1) such person shall be appointed or reappointed, employed or re-employed as a new appointee or employee, who is appointed or employed in accordance with all charter provisions, ordinances, rules or regulations of said city and county in effect for new employees at the time of appointment, reappointment, employment or re-employment;
- (2) the compensation of such person shall not be increased by virtue of any previous employment with said city and county.
- (e) In the event of a strike, or if the mayor with the concurrence of a majority of the board of supervisors determines that a strike is imminent, a special committee shall convene forthwith, which special committee shall consist of the presidents of the airports commission, civil service commission, fire commission, police commission, public transportation commission and public utilities commission. The president of the civil service commission shall serve as chairman of the special committee. Notwithstanding any other provision of law, it shall be the duty of the special committee to dismiss in accordance with the provisions of this section any municipal employee found to be in violation of any provisions of this section. Any person may file with the special committee written charges against a municipal employee or employees in violation of any of the provisions of this section and the special committee shall receive and investigate, without undue delay, and where necessary take appropriate actions regarding any such written charge(s), and forthwith inform that person of its findings and action, or proposed action thereon.

In the event of a strike or determination of imminent strike as specified above, each appointing officer shall deliver each day no later than 12:00 o'clock noon to the chairman of the special committee a record of the absence of each employee under his or her authority for the prior day and a written report describing incidents of and the participant(s) in violations of this section wherever the identity of the participant(s) is known to him or her and the participant(s) is (are) under his or her authority.

In addition each appointing officer shall provide to the special committee, whenever it has been convened under authority of law, any other information determined by the special committee to be necessary for the discharge of its duties. The failure of an appointing officer to discharge any of the duties imposed upon him or her by this section shall be official misconduct.

(f) An employee charged by the special committee with a violation of this section shall be notified of the time and place of the hearing on the charges and of the nature of the charges against him or her. Said employee shall be given such other information as is required by due process. Said employee shall respond to said charges by a sworn affidavit, signed by him or her, and by such other information and documentation and in such a manner as is prescribed by the special committee. An employee failing to provide the responses required by this section or in any way failing to comply with the procedural time limitations and information requirements imposed by the special committee shall be immediately suspended and shall not be entitled to a hearing until he or she has fully complied with the aforementioned requirements.

If the special committee, after a hearing, determines that the charges against the employee are supported by the preponderance of the evidence submitted, said special committee shall dismiss the employee involved and said employee shall not be reinstated or returned to city and county service except as specified in Subsection (d).

A dismissal or suspension invoked pursuant to the provisions of this section shall not be appealable to the civil service commission.

(g) The special committee shall discharge its duties in a timely manner while preserving the due process rights of employees with the objective of obtaining immediate sanctions against striking employees. The willful failure of any member of this special committee faithfully and fully to discharge his or her duties in a timely manner and to accord absolute priority to the performance of those duties shall be deemed official misconduct.

In the event the special committee determines that it shall be unable to comply with constitutional due process requirements that a timely hearing be provided or that it shall be unable to comply with its obligations fully and in a timely manner to investigate and hear all violations of this section, then the special committee may, subject to the budget and fiscal provisions of the charter, engage the administrative and clerical personnel, investigators, and one or more hearing officers to conduct hearings hereunder. In conducting hearings, the hearing officers shall have the same powers of inquiry and disposition as the special committee.

(h) In order to provide for the effective operation of this section in the event of a strike or determination of imminent strike, the president of the civil service commission, not later than 30 days after this section becomes effective, shall convene the special committee which shall adopt rules, regulations, and procedures for the

investigation, hearing and disposition of all violations of this section.

(i) In order to bring the provisions of this section to the attention of any person who may be affected thereby, each municipal employee on the effective date of this section, exclusive of members of the uniformed forces of the police and fire departments as provided in Section 8.345 hereof, and each person appointed or employed as a municipal employee pursuant to the civil service provisions of this charter, exclusive of persons appointed to the entrance positions in the uniformed forces of the police and fire departments as provided in Section 8.345 hereof, on or after the effective date of this section shall be furnished a copy of this section and shall acknowledge such receipt in writing. The signed, written receipt shall be filed in the office of the civil service commission and maintained therein for the term of his or her employment with the City and County of San Francisco.

(j) The provisions of Sections 3.100 and 3.100-1, relating to the emergency

powers of the mayor, shall not be applicable to the provisions of this section.

(k) If any clause, sentence, paragraph, subsection, or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

#### A8.364 AUTHORIZATION TO TRANSFER UNUSED SICK LEAVE

(a) Employees of the City and County of San Francisco may individually transfer their unused accumulated sick leave to another individual employee of the City and County of San Francisco who has been determined to be catastrophically ill, and who has exhausted her or his vacation allowance, sick leave and compensatory time off, provided that such determination and such transfer may be made only in compliance with the terms and conditions established by ordinance adopted by the board of supervisors.

(b) Notwithstanding Sections 8.360 and 8.363 of this charter, within sixty (60) days of the effective date of this section, the Health Commission, Civil Service Commission, and Retirement Board shall conduct a joint hearing to consider and develop recommendations for submission to the Board of Supervisors. The Board of Supervisors shall adopt an ordinance, as provided in subsection (a), and establish any rules necessary to administer, interpret, and regulate the provisions of this section, provided that all such rules shall be approved, amended, or rejected by resolution by the Board of Supervisors.

# A8.400 GENERAL RULES FOR ESTABLISHING AND PAYING COMPENSATION

- (a) The board of supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as provided in Section 8.401, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.
- (b) The board of supervisors shall have power by ordinance to provide the periods when salaries and wages earned shall be paid provided, that until such ordinance becomes effective, all wages and salaries shall be paid semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or continuous personal service other than in the manner provided by this charter.
- (c) All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of the city and county shall be transmitted to the department of human resources before presentation to the controller.
- (d) The human resources director shall verify that all persons whose names appear on payrolls have been legally appointed to or employed in positions legally established under this charter. In performing such verification said director may rely upon the results of electronic data processing. Said director shall direct his attention to exception reports produced by such processing; he shall approve or disapprove each item thereon and transmit said exception reports to the controller. The controller shall not draw his warrant for any claim for personal services, salary, wages or compensation which has been disapproved by the said director.
- (e) For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any principal executive or other officer of the city and county shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said principal executive or other officers, and shall be subject to examination and approval by the human resources director and the controller in the same manner as payments for personal services.
- (f) The salary, wage or other compensation fixed for each officer and employee in, or as provided by this charter, shall be in full compensation for all services

rendered, and every officer and employee shall pay all fees and other moneys received by him, in the course of his office or employment, into the city and county treasury.

- (g) No officer or employee shall be paid for a greater time than that covered by his actual service; provided, however, that the basic amount of salary, wage or other compensation, excluding premium pay differentials of any type whatsoever of any officer or employee who may be called upon for jury service in any municipal, state or federal court, shall not be diminished during the term of such jury service. There shall, however, be deducted from the amount of basic salary, wage or other compensation, excluding any pay premium differentials of any type whatsoever payable by the city and county to the officer or employee for such period as such officer or employee may be absent on account of jury service, any amounts which the officer or employee may receive on account of such jury service. Any absence from regular duty or employment while on jury duty shall be indicated on timerolls by an appropriate symbol to be designated by the controller.
- (h) Notwithstanding any other limitation in the Charter to the contrary, and subject to meet and confer obligations of state law, the Mayor may request that the Board of Supervisors enact, and the Board shall then have the power to so enact, an ordinance entitling City officers or employees called to active duty with a United States military reserve organization to receive from the City the following as part of the individual's compensation: for a period to be specified in the ordinance which may not exceed 180 days, the difference between the amount of the individual's military pay and the amount the individual would have received as a City officer or employee had the employee worked his or her normal work schedule, including any merit raises which otherwise would have been granted during the time the individual was on active duty. Any such ordinance shall be subject to the following limitations and conditions:
- 1. The individual must have been called into active service for a period greater than 30 consecutive days.
- 2. The purpose for such call to active service shall be extraordinary circumstances and shall not include scheduled training, drills, unit training assemblies, or similar events.
- 3. The amounts authorized pursuant to such an ordinance shall be offset by amounts required to be paid pursuant to any other law in order that there be no double payments.
- 4. Any individual receiving compensation pursuant to such an ordinance shall execute an agreement providing that if such individual does not return to City service within 60 days of release from active duty, or if the individual is not fit for employment at that time, within 60 days of return to fitness for employment, then that compensation shall be treated as a loan payable with interest at a rate equal to the greater of (i) the rate received for the concurrent period by the Treasurer's Pooled Cash Account or (ii) the minimum amount necessary to avoid imputed income under the Internal Revenue Code of 1986, as amended from time to time, and any successor statute. Such loan shall be payable in equal monthly installments over a period not to exceed 5 years, commencing 90 days after the individual's release from active service or return to fitness for employment, as the case may be.
- 5. Such an ordinance shall not apply to any active duty served voluntarily after the time that the individual is called to active service.
  - 6. Such ordinance shall not be retroactive.

# A8.402 COMPENSATION OF TEACHERS, PART-TIME EMPLOYEES AND CERTAIN OTHER GROUPS

Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library departments, construction employees engaged outside of the city and county, part-time employees, and inmate and institutional help receiving less than \$50 per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this charter; provided that part-time employees shall be recorded as such by a principal executive, only with approval of the civil service commission and, when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

# A8.403 COMPENSATION FOR REGISTERED NURSE CLASSIFICATIONS

The salary, conditions and benefits of employment of the various classifications of nurses required to possess a registered nurse license issued by the State of California as provided for in this section as compensation shall be determined and fixed annually as follows:

- (a) On or before May 1, 1982, and each year thereafter, the civil service commission shall certify to the board of supervisors for the acute care staff nurse classification the highest prevailing salary schedule in effect on April 15 of that year, and salary adjustments, if any, to be effective during the city and county's next succeeding fiscal year, granted by collective bargaining agreement to comparable registered nurse employees in public and private employment in the counties of Alameda, Contra Costa, Marin, San Mateo, San Francisco and Santa Clara. Rates of pay for other registered nurse classifications shall reflect not less than the same relationships to the benchmark registered nurse classification that those classifications had in fiscal year 1980-1981 to the then benchmark classification.
- (b) The board of supervisors shall on or before June 1, 1982, and each year thereafter, fix a salary schedule for each classification which shall not be in excess of the schedules certified by the civil service commission, for each such classification, except as provided in Subsection (f) below, and provided, further, that no employee's basic rate of pay shall be reduced to conform to the highest prevailing salary schedule except as provided for in Section 8.406;
- (c) The rates of pay fixed for each classification shall become effective at the beginning of the next succeeding fiscal year;
- (d) The terms "salary schedule" and "salary schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such salary schedule; the term "salary adjustments" shall mean an increase or decrease to the maximum rate of pay;
- (e) At the time the board of supervisors fixes the salary schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits of employment other than salaries as compensation for each classification, conditions and benefits not to exceed the intent of those conditions and benefits granted by collective bargaining agreements to comparable classifications by the employer used for certification of the highest prevailing salary schedule by the civil service commission. The board of supervisors may establish such conditions and benefits notwithstanding

other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of or benefits of the retirement system, health service system or vacation allowances provided elsewhere in this charter. Conditions and benefits of employment existing prior to July 1, 1982 may be continued by the board of supervisors;

(f) When the employer used for certification in Subsection (a) above, provides rates of pay during the current fiscal year in excess of those fixed by the board of supervisors for said current fiscal year, or vacation and health service benefits greater than such similar benefits provided by this charter for the staff nurse classification, the civil service commission shall certify to the board of supervisors an amount not to exceed the difference of such salary and benefits converted to dollar values and the board of supervisors may provide additional salary, conditions and benefits of employment at a cost not to exceed said dollar value.

#### A8.404 SALARIES AND BENEFITS OF CARMEN

The wages, conditions and benefits of employment as provided for in this section of the various classifications of employment of platform employees and coach or bus operators of the municipal railway as compensation, shall be determined and fixed annually as follows:

- (a) On or before the first Monday of August of each year, the civil service commission shall certify to the board of supervisors for each classification of employment the average of the two highest wage schedules in effect on July 1st of that year for comparable platform employees and coach or bus operators of other surface street railway and bus systems in the United States operated primarily within the municipalities having each a population of not less than 500,000 as determined by the then most recent census taken and published by the director of the census of the United States, and each such system normally employing not less than 400 platform employees or coach or bus operators, or platform employees, coach and bus operators.
- (b) The board of supervisors shall thereupon fix a wage schedule for each classification of platform employees and coach and bus operators of the municipal railway which shall not be in excess of the average of the two highest wage schedules so certified by the civil service commission for each such classification.
- (c) When, in addition to their usual duties, such employees are assigned duties as instructors of platform employees or coach or bus operators they shall receive additional compensation that shall be subject to negotiation in addition to the rate of pay to which they are otherwise entitled under the wage schedule as herein provided.
- (d) The rates of pay fixed for platform employees and coach and bus operators as herein provided shall be effective from July 1st of the year in which such rates of pay are certified by the civil service commission.
- (e) The terms "wage schedule" and "wage schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such wage schedule.
- (f) At the time the board of supervisors fixes the wage schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits of employment other than wages as compensation for platform employees and coach or bus operators of the municipal railway, conditions and benefits not to exceed those conditions and benefits granted by collective bargaining agreements to the comparable platform

employees and coach or bus operators of the two systems used for certification of the average of the two highest wage schedules by the civil service commission. The board of supervisors may establish such conditions and benefits notwithstanding other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of, or benefits of the retirement system, health service system or vacation allowances as provided elsewhere in this charter. For all purposes of the retirement system as related to this section, the word "compensation" as used in Section 8.509 of this charter shall mean the "wage schedules" as fixed in accordance with paragraphs (a) and (b) above, including those differentials established and paid as part of wages to platform employees and coach and bus operators of the municipal railway, but shall not include the value of those benefits paid into the fund established as herein provided. Provided that when in the two systems used for certification as provided above, vacation, retirement and health service benefits are greater than such similar benefits provided by this charter for platform employees, coach or bus operators of the municipal railway, then an amount not to exceed the difference of such benefits may be converted to dollar values and the amount equivalent to these dollar values shall be paid into a fund. The fund shall be established to receive and to administer said amounts representing the differences in values of the vacation, retirement and health service benefits, and to pay out benefits that shall be jointly determined by representatives of the city and county government and the representatives of the organized platform employees and coach and bus operators of the municipal railway. The civil service commission shall adopt rules for the establishment and general administration of the fund as herein provided. Such rules shall provide for a joint administration of the fund by representatives of the city and county government, which shall include representatives of the administrator of the agency responsible for the municipal railway and representatives of the organized platform employees, coach and bus operators of the municipal railway. Such rules may provide a procedure for final and binding arbitration of disputes which may arise between representatives of the city and county government and the representatives of the organized platform employees and coach and bus operators of the municipal railway. Such rules shall provide that all investments of the fund shall be of the character legal for insurance companies in California. Such rules and any amendments thereto shall be effective upon approval by the board of supervisors by ordinance.

(g) Notwithstanding any provisions of this charter, including other subparts of this section, the board of supervisors may, after meeting and conferring with and reaching agreement with the employee organization certified as the representative for municipal railway operators, fix wages and benefits of employment other than wages for platform employees and coach and bus operators of the municipal railway under this section for periods in excess of one year. Any ordinance fixing wages and benefits of employment other than wages adopted pursuant to this section for a period of more than one year shall contain a provision to the effect that during said period of time it shall be unlawful for the employees receiving the compensation so fixed to engage in a strike, work stoppage or conduct delaying or interfering with work at city and county facilities. Wages and benefits of employment other than wages established under this section shall not in any year exceed the limits established under paragraphs (b) and (f) of this section.

(h) Not later than the 25th day of August, the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions for paying the rates of compensation and conditions and benefits other than wages fixed by the board of supervisors as in this section provided for platform employees and coach or bus operators for the then current fiscal year.

On recommendation of the civil service commission the board of supervisors shall establish a rate of pay for trainee platform men and bus or coach operators at a level reflecting the current labor market but below the basic hourly rate for motor-

man, conductor and bus operator.

#### SALARIES OF UNIFORMED FORCES IN THE POLICE AND A8.405 FIRE DEPARTMENTS

(a) Not later than the first day of August of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid police officers or patrol officers employed in the respective police departments in all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each police officer or patrol officer classification performing the same or essentially the same duties as police officers or patrol officers in the City and County of San Francisco.

Thereupon the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the police department whose annual compensations are set forth in Section 3.531 of this charter and said rates shall be in lieu of said annual compensations and shall be effective from the first

day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter for police officers, police patrol drivers and women protective officers the compensation shall be fixed at a rate which is the average maximum wage paid to police officer or patrol officer classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of police officer classifications in cities in said certification;

(2) for the first, second and third year of service for police officers, police patrol drivers and women protective officers shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the police department other than police officers, police patrol drivers and women protective officers shall include the same percent of adjustment as that established by said ordinance for police officers in the fourth year of service: and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken

to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the board of supervisors as in this section provided and appropriations therefor shall be based thereon.

The expression "rates of compensation," as used in this section in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differential of any type shall be allowed or paid to members of the police department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation" as used in this section, shall mean "salary attached to the rank" as used in Section 166 of the charter of 1932, as amended, and with the addition of fifteen dollars (\$15) per month now provided in Subsection (b) with respect to members assigned to two-wheel motorcycle duty, shall also mean "compensation earnable" as used in Section 8.549.

The term "police officers or patrol officers" as used in this section shall mean the persons employed in the police departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by police officers, police patrol drivers and women protective officers in the San Francisco Police Department.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensation as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer or police patrol driver on military leave, as defined by Section 8.361 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance.

If any member of the department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, such member shall receive the rate of compensation attached to the rank of sergeant.

(b) Not later than first day of August of each year the civil service commission shall survey, and certify to the board of supervisors, additional rates of pay paid to members assigned to all two-wheel motorcycle duty in the respective police departments of all cities of 350,000 population or over in the State of California, based upon the latest decennial census. For the purpose of the civil service commission's survey and certification the additional rates for two-wheel motorcycle duty shall include the

average additional amount paid to members assigned to two-wheel motorcycle duty in the cities surveyed.

Thereupon the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix the additional rate of pay for the members of the police department who are assigned two-wheel motorcycle duty. The additional rate of pay will be determined by the average additional wage paid to members in regular service in the cities included in the certified report of the civil service commission who are assigned to two-wheel motorcycle duty. "Average wage" as used in this paragraph shall mean the sum of the additional rates of pay certified by the civil service commission divided by the number of cities in said certification. Said additional rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

Said rate of pay shall be in addition to the rate of compensation provided for in Subsection (a).

In no event shall the additional rate so fixed be less than fifteen dollars (\$15) per month.

(c) Not later than the first day of August of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid firefighters employed in the respective fire departments of all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each firefighter classification performing the same or essentially the same duties as firefighters in the City and County of San Francisco.

Thereupon, the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the fire department whose annual compensations are set forth or otherwise provided in Section 3.542 of this charter, and said rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

- (1) for the fourth year of service and thereafter the rate of compensation shall be fixed at a rate which is the average of the maximum compensation paid firefighter classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of firefighter classifications in cities in said certification;
- (2) for the first, second and third year of service for firefighters shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;
- (3) for said members of the fire department other than firefighters shall include the same percent of adjustment as that established by said ordinance for firefighters in the fourth year of service; and
- (4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The expression "rates of compensation" as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with

included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences for any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation," as used in Subsections (c) and (d) of this section shall mean "salary attached to the rank" as used in Section 169 of the charter of 1932, as amended and "compensation earnable" as used in Section 8.549.

The term "firefighters" as used in this section shall mean the persons employed, in the fire departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression "members of the fire department" does not include members of the fire commission.

The absence of any officer or member of the fire department on military leave of absence, as defined by Section 8.361 of this charter shall be reckoned a part of such member's service under the city and county, for the purpose of computing years of service in gaining added compensation as provided in this charter.

On the recommendation of the chief of department, the commission may reward any officer or member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, shall be thirteen percent (13%) above the compensation established for the ranks of captain and lieutenant as provided for in this section. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, shall be ten percent (10%) above the compensation established for the rank of chief's operator as provided for in this section. The rate of compensation shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this subsection, half dollars being taken to the next higher dollar amount.

(d) The rates of compensation fixed pursuant to the provisions of Subsection (a)(1), (2) and (3) and the rates of compensation fixed pursuant to the provisions of Subsection (c)(1), (2) and (3) shall be the same. Such rates shall not exceed the highest average rate of compensation fixed pursuant to Subsections (a)(1), (2) and (3) and (c)(1), (2) and (3) above, whether it be paid to police officers, patrol officers or firefighters; provided, further, that the minimum rate of compensation attached to the rank of sergeant in the police department shall be equal to the rate of compensation attached to the rank of lieutenant in the fire department.

(e) Not later than the 25th day of August the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions of paying the rates of compensation fixed by the board of supervisors as in this section provided for uniformed members of the police and fire departments for the then current fiscal year.

Notwithstanding any other charter provision, the rates of compensation for police officers and firefighters shall be annually further increased as follows:

- (1) In the event that any city of 350,000 population or over in the State of California as defined in subsections (a) and (c) of this section has not finalized, fixed, or reached agreement as to the rates of compensation prior to the 25th day of August, the date for further and additional fixing of the rates of compensation and for further and additional amending of the annual appropriation ordinance and annual salary ordinance to provide for the paying of additional rates of compensation to police officers and firefighters shall extend to the 30th day of June of the following year.
- (2) Should any city as defined in subsections (a) and (c) of this section finalize, fix or reach agreement as to the rates of compensation after the 25th day of August but prior to the 30th day of June of the following year, the board of supervisors shall have the power, and it shall be its duty, subject to the fiscal provisions of the charter, by ordinance, within 30 calendar days of said finalizing, fixing, or reaching agreement, further to fix the rates of compensation for the uniformed members of the police and fire departments and to further amend the annual appropriation ordinance and the annual salary ordinance to include provisions for paying the rates of compensation as so further fixed pursuant to subsections (a), (b) and (c) of this section, and said rate of compensation shall be effective retroactive to the effective date of the agreement or legislation designated in subsections (a) and (c), but in no event prior to July 1 of the current fiscal year.
- (f) Not later than the first day of August of each year, the civil service commission shall determine and certify to the board of supervisors the percentage of increase or decrease in the cost of living during the 12-month period ending March 31st of that same year as shown by the Consumer Price Index, All Items San Francisco, and the percentage of increase or decrease in the cost of living during the same period as shown by the Consumer Price Index, All Items, in the cities included in the certified report of said commission. The Consumer Price Index referred to herein is defined as that certain index issued by the U. S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. In the event the U. S. Bureau of Labor Statistics discontinues the compilation and publication of said indexes, the board of supervisors shall have the power, and it shall be its duty, to appoint a statistical fact finding committee to determine the same data pursuant to the methods theretofore used by the U. S. Bureau of Labor Statistics. The cost of living adjustments as hereinafter provided shall be based upon the percentage of such increases or decreases. The board of supervisors may, in addition to the rates of compensation as established herein, and at the same time said rates of compensation are established, increase said rates of compensation by an amount equal to the difference between the average cost of living increase of the cities included in the certified report of the civil service commission and the actual cost of living increase for San Francisco. In the event the board of supervisors elects not to grant such cost

of living increase in any year in which any such increase might be granted, the board of supervisors shall, upon a written request filed with the clerk of the board of supervisors not later than the 10th day of September of said year by representatives of the uniformed members of the police and fire departments, as designated by the police and fire commissions, respectively, submit the question of said cost of living increase to the qualified electors of the city and county at the next succeeding citywide election. In the event said cost of living increase is approved by a majority of the qualified electors voting thereon, said cost of living increase shall be effective as of the first day of the then current fiscal year.

- (g) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department employed before July 1, 1976, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of any new compensation schedules, and the rates for fiscal year 1975-76 shall continue until such time as the new schedules equal or exceed the current salary increment schedules, provided, however, that such time shall not be extended beyond June 30, 1982, and provided further that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this charter.
- (h) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of the compensation schedules provided for herein. Provided, however, that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this charter.
- (i) This amendment shall become effective immediately upon certification of election results and its provisions shall pertain to fixing rates of pay for police officers and firefighters during fiscal year 1986-87.

#### A8.406 SALARY DEDUCTIONS

Whenever, in the judgment of the mayor and the board of supervisors, extraordinary economic conditions actually exist due to unemployment, fire, earthquake, flood or other calamity, which adversely affect the life, health and welfare of the citizens of the city and county or of any considerable portion thereof, the board of supervisors, by a three-fourths vote of all of its members, with the concurrence of the mayor, shall have power as follows, to-wit:

- (a) To officially declare that a public emergency exists, and to fix the approximate anticipated time during which said emergency shall continue, provided that no such emergency shall be anticipated to continue beyond the end of the fiscal year during which the same is declared, unless such emergency be declared subsequent to the first day of January of said year, in which event the said emergency may be anticipated to continue until the end of the next succeeding fiscal year.
- (b) To provide that while said emergency as declared shall continue to exist there shall be deducted from the gross salaries and compensations, exclusive of pension and retirement allowances, of each officer and employee of the City and County of San Francisco, including officers and employees of the board of education, not more than the respective amounts hereinafter set forth. Said deductions shall be made on the basis of the salary and compensation rate of said several officers and

employees which were in effect during the calendar month immediately preceding the month during which said emergency was declared and not reduced by this section.

If said salary and compensation deductions are not reflected in the annual budget and appropriation ordinances, as set forth in Subsection (c) of this section, the amount of said deductions shall be used for the purpose of meeting or alleviating the emergency which has been declared, or to balance any deficiency existing in the general funds of the city arising by reason of the delinquency in the payment of taxes or other revenue as compared with the anticipated revenues over the same period. Provided that where salaries or compensations are paid out of bond funds, utility funds, or other trust funds, which are not provided from the revenues of the city, all deductions made shall revert to the respective funds from which said salaries or compensations are paid.

The maximum deductions from the salary or compensation of each officer or employee heretofore referred to shall be as follows, to-wit:

- (1) From the salaries or compensation of officers or employees whose gross earnings exceed \$100 per month and do not exceed \$120 per month, three percent of the amount of the gross monthly earnings of each of said officers or employees.
- (2) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of \$120 per month and do not exceed the sum of \$150 per month, seven percent of the gross monthly earnings of each of said officers or employees.
- (3) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of \$150 per month, and do not exceed the sum of \$185 per month, 10 percent of the gross monthly earnings of each of said officers or employees.
- (4) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$185 per month, and do not exceed the sum of \$275 per month, 12-1/2 percent of the gross monthly earnings of each of said officers or employees.
- (5) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$275 per month, and do not exceed the sum of \$600 per month, 15 percent of the gross monthly earnings of said officers or employees.
- (6) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$600 per month, and do not exceed the sum of \$834 per month, 18 percent of the gross monthly earnings of each of said officers or employees.
- (7) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$834 per month, 20 percent of the gross monthly earnings of each of said officers or employees.
- (8) Provided, however, that no more than 5-1/2 percent of the gross monthly earnings of per diem employees whose compensations are fixed on the basis of a five-day week shall be deducted from the salaries or earnings of any such employee.

Said deductions shall be made from said earnings or compensations in monthly or semi-monthly installments according to the time at which said salaries or compensations are paid; provided that where the earnings of any officer or employee are on an hourly or per diem basis deductions based on his total earnings for the month shall be deducted from the installment of said earnings paid for the last half of the month.

(c) Should any such emergency declared as herein provided be anticipated to continue into the next fiscal year following the one during which said emergency has been declared, the controller and the mayor in preparing or submitting their respective annual budget estimates shall base and estimate the net salaries and compensations

to be paid at amounts not to exceed the said salaries and compensations as reduced by the above-mentioned percentages on the above-mentioned salary and compensation rates, and the annual appropriation and salary ordinance shall fix said net salaries and compensation accordingly. When any emergency is declared after the annual budget is prepared or adopted, or after the annual appropriation or salary ordinances are enacted, and before the annual tax rate is fixed as provided by law, said budget and said appropriation and salary ordinances may be revised or reenacted, so that the deductions herein authorized to be made may be reflected in the amount of the tax levy.

- (d) All of such deductions, whether made after the passing of the annual budget appropriation and salary ordinance or included therein, shall be deemed as temporary deductions from the salaries and compensations of said officers and employees, and shall be continued only during the anticipated period for which said emergency has been declared.
- (e) In making the deductions herein provided for, the value of board, room and laundry or other maintenance furnished by the city and county to any officer or employee, when the same is made a part of his compensation by the civil service commission, shall be added to the monetary salary or compensation paid to said employee, and the amount of deductions from said salary or compensation shall be based on said monetary salary plus the value of said board, room and laundry or other maintenance, provided that no deduction shall be made for quarters furnished to any officer or member of the fire department.
- (f) During the period that any emergency shall exist after being so determined as hereinbefore provided, the controller, with the approval of the mayor and the board of supervisors, may reallocate any unencumbered balance, or any part thereof, to the credit of any department or office exclusive of monies or appropriations made or required to be made to any bond, bond interest, bond redemption, pension, utility, or trust fund, so that the same shall be available to meet the necessities of said emergency, irrespective as to whether the amount allocated to said department or office is fixed by this charter or is the result of a tax provided by said charter to be levied for said department. Should the period during which said emergency is anticipated to exist extend beyond the end of the fiscal year in which the same was declared to exist, the mayor, with the approval of the board of supervisors, may reduce the amount of any mandatory appropriation provided to be allocated to any office or department; or may reduce the amount of any tax provided by the charter to be levied for the support or maintenance of any department or office. Provided that no such deduction in appropriation, provided by this charter to be made to any department, or in the reallocation of funds, or reduction in the amount of said tax otherwise provided to be levied to produce funds for any department, shall be greater than is necessary to reflect the deductions in salaries provided in the section to be made by reason of said emergency.

The provisions of this section shall have precedence over conflicting provisions of this charter, but nothing herein contained shall adversely affect the rights of the officers and employees as set forth in Section 8.400 (h) of the charter, during the period when no public emergency exists. Contributions by the city and county and by members of the San Francisco City and County Employees' Retirement System to, and benefits, pension payments and allowances under said retirement system, shall be calculated on the basis of gross salaries and compensations of such members in

the same manner and amounts as if no deductions from said gross salaries and compensations were made under this section.

Should any emergency be declared pursuant to the provisions of this section, which, in the judgment of the board of supervisors, will necessitate deductions from the salaries of the officers and employees of the city and county, over and above the amounts herein provided for, the board of supervisors by unanimous vote of all of its members, and with the approval of the mayor may authorize a further deduction from the salaries and compensations of any of said officers and employees by increasing the maximum deductions in this section provided for, up to and including an amount not to exceed 25 percent of said respective salaries or compensations as the same existed before any deduction by authority of this section.

### A8.409 DECLARATION OF POLICY

It is hereby declared to be the policy of the city and county of San Francisco that strikes by city employees are not in the public interest and that, in accordance with Government Code Section 3507(e), a method should be adopted for peacefully and equitably resolving disputes. It is the further purpose and policy of the city and county of San Francisco that the procedures herein adopted, except as otherwise provided herein, shall supersede and displace all other formulae, procedures and provisions relating to wages, hours, benefits and other terms and conditions of employment found in this charter, in the ordinances and resolutions of the city and county of San Francisco, or in the rules, regulations or actions of boards or commissions of the city and county of San Francisco.

If any officer or employee covered by this part engages in a strike as defined by section 8.346(a) of this charter against the City and County of San Francisco, said employee shall be dismissed from his or her employment pursuant to charter section 8.346.

In accordance with applicable state law, nothing herein shall be construed to restrict any legal city rights concerning direction of its work force, or consideration of the merits, necessity, or organization of any service or activity provided by the City. The City shall also have the right to determine the mission of its constituent departments, officers, boards and commissions; set standards of services to be offered to the public; and exercise control and discretion over the city's organization and operations. The City may also relieve city employees from duty due to lack of work or funds, and may determine the methods, means and personnel by which the city's operations are to be conducted.

However, the exercise of such rights does not preclude employees from utilizing the grievance procedure to process grievances regarding the practical consequences of any such actions on wages, hours, benefits or other terms and conditions of employment whenever memoranda of understanding providing a grievance procedure are in full force and effect.

It is the declared intent of the voters that the state statutes referenced in this part be those in effect on the effective date of this part.

#### A8.409-1 EMPLOYEES COVERED

These Sections 8.409 through 8.409-6, inclusive, shall apply to all miscellaneous officers and employees and including employees of San Francisco Unified School District and San Francisco Community College District to the extent authorized by state law. The provisions of charter sections 8.400(h), 8.401-1, and 8.407 are hereby repealed and shall be of no further force and effect. Employee organizations representing employees in classifications covered by section 8.403 and 8.404 of this Charter may elect to include those classifications within the coverage of this part as a separate bargaining unit, provided however, that the election shall not become effective without the written approval of the Mayor and Board of Supervisors. The election shall be irrevocable and such employees shall not thereafter be subject to the provisions of section 8.403 and 8.404.

Employees in classifications not represented by a recognized employee organization shall be entitled to represent themselves with the city and county over wages, hours and other terms and conditions of employment to the extent required by state law and shall not be subject to the arbitration provisions of Section 8.409-4 of this charter. The Mayor annually shall propose all forms of compensation for unrepresented employees including salaries, hours, benefits, and other terms and conditions of employment subject to approval or disapproval of the board of supervisors. Consistent with other provisions of this charter, the civil service commission may adopt rules and procedures relating to said unrepresented employees.

Except as otherwise provided by this charter the Civil Service Commission shall set the wages and benefits of all elected officials of the City and County of San Francisco as follows: wages shall be frozen for fiscal year 1994-95 and 1995-96 at the rates in effect on June 30, 1994, thereafter wages and benefits may be adjusted on July 1, of each fiscal year to reflect upward change in the CPI as of the preceding January 1; however, wage increases may not exceed 5%. Benefits of elected officials may equal but may not exceed those benefits provided to any classification of miscellaneous officers and employees as of July 1 of each fiscal year.

In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor may create, for employees designated as management, a management compensation package that recognizes and provides incentives for outstanding managerial performance contributing to increased productivity and efficiency in the work force. In formulating such a package, the Mayor shall take into account data developed in conjunction with the civil service commission regarding the terms of executive compensation in other public and private jurisdictions.

#### A8.409-2 INTERIM PROVISIONS

Notwithstanding the provisions of section 8.407 of this charter, from January 3, 1992 through March 31, 1992, in return for acceptance of a wage freeze for fiscal year 1991-1992, all recognized employee organizations representing classifications electing to remain within the coverage of charter sections 8.401 and 8.407 may, on a one time only basis, elect to bargain for no more than two additional paid training or furlough days per year to be effective only in fiscal years 1992-93, 1993-94 and 1994-95, and a dental plan, in recognition of the wage freeze for 1991-92. Such bargaining shall not be subject to the impasse procedures provided herein or any other provision of the charter, ordinance, or state law.

# A8.409-3 OBLIGATION TO BARGAIN IN GOOD FAITH

Notwithstanding any other ordinances, rules or regulations of the city and county of San Francisco and its departments, boards and commissions, the city and county of San Francisco, through its duly authorized representatives, and recognized employee organizations representing classifications of employees covered by this part shall have the mutual obligation to bargain in good faith on all matters within the scope of representation as defined by Government code section 3504, relating to the wages, hours, benefits and other terms and conditions of city and county employment, including the establishment of procedures for the resolution of grievances concerning the interpretation or application of any agreement, and including agreements to provide binding arbitration of discipline and discharge; provided, however that, except insofar as they affect compensation, those matters within the jurisdiction of the civil service commission which establish, implement and regulate the civil service merit system shall not be subject to bargaining under this part: the authority, purpose, definitions, administration and organization of the merit system and the civil service commission; policies, procedures and funding of the operations of the civil service commission and its staff; the establishment and maintenance of a classification plan including the classification and reclassification of positions and the allocation and reallocation of positions to the various classifications; status rights; the establishment of standards, procedures and qualifications for employment, recruitment, application, examination, selection, certification and appointment; the establishment, administration and duration of eligible lists; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; the designation of positions as exempt, temporary, limited tenure, part-time, seasonal or permanent; resignation with satisfactory service and reappointment; exempt entry level appointment of the handicapped; approval of payrolls; and conflict of interest. As to these matters, the Civil Service Commission shall continue to be required to meet and confer pursuant to state law.

Unless and until agreement is reached through bargaining between authorized representatives of the city and county of San Francisco and authorized representatives of recognized employee organizations for the employee classifications covered by this part, or a determination is made through the procedure set forth in section 8.409-4 hereinafter provided, no existing wages, written terms or conditions of employment, fringe benefits, or long-standing past practices for said employees shall be altered, eliminated or changed except in cases of emergency. This paragraph shall be effective only until the approval of the first memorandum of understanding with a covered employee organization or six months from the effective date of this part whichever occurs sooner.

During the term of an MOU, disputes regarding changes in wages, hours, benefits and other terms and conditions of employment shall not be subject to the impasse procedures provided in this part, but may be subject to grievance arbitration.

No bargaining unit may be included in more than one memorandum of understanding with the city and county of San Francisco. Consistent with charter sections 3.100-2 and 3.103 and subject to the prior written approval of the Human Resources Director which shall not be unreasonably withheld, appointing officers shall have the authority to negotiate agreements with recognized employee representatives. Appoint-

ing officers shall consult and coordinate such negotiations with the Human Resources Director. Such memoranda of understanding shall be restricted to non-economic items within the jurisdiction of the department appointing officer which do not conflict with a city-wide memorandum of understanding. Such memoranda of understanding shall come into full force and effect only upon approval by the mayor and thereafter by a majority vote of the board of supervisors or other appropriate governing body. Upon such approval, departmental memoranda of understanding shall be attached as appendices to the employee organization's city-wide memorandum of understanding as negotiated under this part. No memorandum of understanding negotiated pursuant to this paragraph during the term of a city-wide memorandum of understanding shall be subject to the arbitration provisions of this part until re-negotiation of the employee organization's city-wide memorandum of understanding.

Agreements reached pursuant to this part by the authorized representatives for the city and county of San Francisco, on behalf of its departments, boards and commissions, and the authorized representatives of recognized employee organizations, once adopted by ordinance of the board of supervisors, shall be binding on the city and county of San Francisco, and on its departments, boards, commissions, officers and employees and on the recognized employee organizations and their successors, and all employees in classifications they represent. Except as specifically set forth in this part, said agreements shall supersede any and all other conflicting procedures, provisions and formulae contained in this charter, in the ordinances of the board of supervisors, or in the rules or regulations of the city and county of San Francisco, relating to wages, hours, or other terms and conditions of employment.

### A8.409-4 IMPASSE RESOLUTION PROCEDURES

- (a) Subject to Section 8.409-4(g), disputes pertaining to wages, hours, benefits or other terms and conditions of employment which remain unresolved after good faith bargaining between the city and county of San Francisco, on behalf of its departments, boards and commissions, and a recognized employee organization representing classifications of employees covered under this part shall be submitted to a three-member mediation/arbitration board ("the board") upon the declaration of an impasse either by the authorized representative of the city and county of San Francisco or by the authorized representative of the recognized employee organization involved in the dispute; provided, however, that the arbitration procedures set forth in this part shall not be available to any employee organization that engages in a strike unless the parties mutually agree to engage in arbitration under this section. Should any employee organization engage in a strike either during or after the completion of negotiations and impasse procedures, the arbitration procedure shall cease immediately and no further impasse resolution procedures shall be required.
- (b) Not later than January 20 of any year in which bargaining on an MOU takes place, representatives designated by the city and county of San Francisco and representatives of the recognized employee organization involved in bargaining pursuant to this part shall each select and appoint one person to the board. The third member of the board shall be selected by agreement between the city and county of San Francisco and the recognized employee organization, and shall serve as the neutral chairperson of the board.

In the event that the city and county of San Francisco and the recognized employee organization involved in bargaining cannot agree upon the selection of the

chairperson within ten (10) days after the selection of the city and county and employee organization members of the board, either party may then request the American Arbitration Association or California State Mediation Service to provide a list of the seven (7) persons who are qualified and experienced as labor interest arbitrators. If the city and county and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) persons to act as the chairperson, they shall randomly determine which party strikes first, and shall alternately strike names from the list of nominees until one name remains and that person shall then become the chairperson of the board.

- (c) Any proceeding convened pursuant to this section shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The board may hold public hearings, receive evidence from the parties and, at the request of either party, cause a transcript of the proceedings to be prepared. The board, in the exercise of its discretion, may meet privately with the parties to mediate or mediate/arbitrate the dispute. The board may also adopt other procedures designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the cost of the arbitration process.
- (d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the board shall direct each of the parties to submit, within such time limit as the board may establish, a last offer of settlement on each of the remaining issues in dispute. The board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds by a preponderance of the evidence presented during the arbitration most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of other employees in the city and county of San Francisco; health and safety of employees; the financial resources of the city and county of San Francisco, including a joint report to be issued annually on the City's financial condition for the next three fiscal years from the Controller, the Mayor's budget analyst and the budget analyst for the board of supervisors; other demands on the city and county's resources including limitations on the amount and use of revenues and expenditures; revenue projections; the power to levy taxes and raise revenue by enhancements or other means; budgetary reserves; and the city's ability to meet the costs of the decision of the arbitration board. In addition, the board shall issue written findings on each and every one of the above factors as they may be applicable to each and every issue determined in the award. Compliance with the above provisions shall be mandatory.
- (e) To be effective the beginning of the next succeeding fiscal year, an agreement shall be reached or the board shall reach a final decision no later than sixty days before the date the Mayor is required to submit a budget to the board of supervisors, except by mutual agreement of the parties. After reaching a decision, the board shall serve by certified mail or by hand delivery a true copy of its decision to the parties. The decision and findings of the arbitration board shall not be publicly disclosed until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision and findings of the arbitration board. At the

conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision and findings of the arbitration board, as it may be modified or amended by the parties, shall be publically disclosed for a period of fourteen (14) days after which time the decision shall be final and binding. Except as otherwise provided by this part, the arbitration decision shall supersede any and all other relevant formulae, procedures and provisions of this charter relating to wages, hours, benefits and terms and conditions of employment, and it shall be final and binding on the parties to the dispute. However, the decision of the board may be judicially challenged by either party.

Thereafter, the city and county of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action necessary to carry out and effectuate the final decision.

- (f) The expenses of any proceedings convened pursuant to this part, including the fee for the services of the chairperson of the board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.
- (g) The impasse resolution procedures set forth in Section 8.409-4, or in any other provision of the charter, ordinance or state law shall not apply to any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local laws, ordinances or regulations. In the event the city acts on a matter it has determined relates to or pertains to a consent decree, or in the event the city acts to ensure compliance with federal, state, or local laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration, but may be challenged in a court of competent jurisdiction.
- (h) The impasse resolution procedures set forth in section 8.409-4, or in any other section of the charter, shall not apply to any proposal pertaining to the right to strike.
- (i) Charter sections 8.590-1 through 8.590-7 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by these sections shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995, except that wages and other economic benefits and compensation of all classifications of Airport Police shall be frozen for the fiscal year following expiration of the Memorandum of Understanding covering those classifications in effect on the effective date of this amendment.
- (j) Subject to the election provisions of section 8.409-1, Charter sections 8.403 and 8.404 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by section 8.404 shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995.

### A8.409-5 RETIREMENT BENEFITS

Notwithstanding any other provision of this part, retirement and death allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article.

However, death benefits and survivor allowances, retirement allowances, adjustments to retirement allowances and adjustments to continuant allowances payable by the retirement system and based on fiscal year 1991-1992 wages and salaries covered by charter section 8.407, shall be calculated for all employees covered by charter sections 8.401 and 8.407 based on the rates certified by the civil service commission to the board of supervisors as though the 1991-1992 salary standardization ordinance vetoed by the mayor had become law. No such payment shall exceed the maximum amount permitted by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, or the maximum amount which would still permit the retirement system to preserve its tax-qualified status under Section 401 of the Internal Revenue Code of 1986, as amended from time to time.

# A8.409-6 EMPLOYEE RELATIONS RULES

Within sixty (60) days of adoption of this amendment, the Mayor shall appoint a panel which after consultation with all parties of interest, shall review the current employee relations ordinance and make recommendations to the Board of Supervisors for such changes as may be necessary to effectuate the purposes of this part.

Such changes shall include the creation of an employee relations board. The duties of the employee relations board shall include hearing and making determinations concerning unfair labor practice charges, disputes regarding representation matters, and unit determinations.

#### A8.410 REIMBURSEMENT OF EXPENSES

Except in the discharge of routine duties, traveling and payment of expenses therefor shall be authorized only by ordinance; provided, that allowances therefor shall not exceed cost of transportation, including Pullman charges, if any, and a reasonable amount per diem for necessary expenses, which per diem shall be fixed annually by ordinance and shall be applicable to all officers and employees.

# A8.411 PAYMENT FOR REPAIR OR REPLACEMENT OF EQUIPMENT

Notwithstanding the provisions of Sections 8.400(a) and (c) through (g), 8.401, 8.402, 8.403, 8.405(a) and 8.405(c), or any other provision of this charter, the board of supervisors may provide by ordinance for the payment of the costs of replacing or repairing equipment, property, or prostheses of any uniformed officer or employee of the police department, fire department, sheriff's office or municipal railway, such as, but not confined to eyeglasses, hearing aids, dentures, watches, or articles of clothing necessarily worn or carried by such employee when any such items are damaged in the line of duty without fault of the employee. If the items are damaged beyond repair, the actual value of such items may be paid. The value of such items shall be determined as of the time of the damage thereto.

The board by a three-fourths vote of all of its members may make similar provision in relation to any other officer or employee where it finds that the damage or loss was occasioned by unusual circumstances or the occurrence of an extraordinary event.

The board is authorized to enact any and all ordinances necessary to carry out the provisions of this section.

# A8.420 ESTABLISHMENT OF AND MEMBERSHIP IN HEALTH SERVICE SYSTEM

A health service system is hereby established. Said system shall be administered by the human resources department subject to the approval of the health service board. The members of the system shall consist of all permanent employees, which shall include officers of the city and county, of the San Francisco Unified School District, and of the Parking Authority of the City and County of San Francisco and such other employees as may be determined by ordinance, subject to such conditions and qualifications as the board of supervisors may impose, and such employees as may be determined by collective bargaining agreement. Any employee who adheres to the faith or teachings of any recognized religious sect, denomination or organization and, in accordance with its creed, tenets or principles, depends for healing upon prayers in the practice of religion shall be exempt from the system upon filing annually with the human resources department an affidavit stating such adherence and dependence and disclaiming any benefits under the system. The human resources department shall have the power to exempt any person whose compensation exceeds the amount deemed sufficient for self coverage and any person who otherwise has provided for adequate medical care. Any claim or request for exemption denied by the human resources department may be appealed to the health services board.

# A8.421 CONTINUATION OF EXISTING PLANS

The medical care plans in effect on the effective date hereof shall continue in force and effect until rescinded or superseded by a new plan or plans adopted by the health service board and approved by ordinance of the board of supervisors, adopted by three-fourths of its members.

#### A8.422 ADOPTION OF PLANS

The board shall have power and it shall be its duty by a two-thirds vote of the entire membership of the health service board to adopt a plan or plans for rendering medical care to members of the system, or for the indemnification of the cost of said care, or for obtaining and carrying insurance against such costs or for such care.

Such plan or plans as may be adopted, shall not become effective until approved by ordinance of the board of supervisors, adopted by three-fourths of its members.

The board of supervisors shall secure an actuarial report of the costs and effect of any proposed change in the benefits of the health service system or rates of contribution before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change.

# A8.423 REVISION OF SCHEDULES AND COMPENSATION

In January of each year, at a public hearing, the health service board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable but such revisions shall not become effective until approved by ordinance of the board of supervisors adopted by three-fourths of its members.

Commencing in 1973, the health service board shall, prior to the second Monday in January in each year, conduct a survey of the 10 counties in the State of California, other than the City and County of San Francisco, having the largest populations to determine the average contribution made by each such county toward the providing of health care plans, exclusive of dental or optical care, for each employee of such county. In accordance with said survey, the health service board shall determine the average contribution made with respect to each employee by said 10 counties toward the health care plans provided for their employees and on or before the second Monday in January of each year, the health service board shall certify to the board of supervisors the amount of such average contribution. For the purposes of Section 8.428, the amount of such average contribution shall be "the average contribution."

The health service board shall have the responsibility to obtain and disseminate information to its members with regard to plan benefits and costs thereof. All expenses in connection with obtaining and disseminating said information and the investment of such fund or funds as may be established, including travel and transportation costs, shall be borne by the system from reserves in the health service fund but only upon adoption of a resolution by the health service board approving such expenses.

# A8.424 SPECIFICITY REQUIRED

Each plan for medical care shall make detailed and specific provision for the benefits to be provided thereunder and for the rates of contribution required to support the plan.

#### A8.425 PERSONS COVERED

Each plan may make provision for the participation in the benefits of the system by the dependents of members, retired city and county employees, temporary city and county employees, such other dependents of deceased and retired city and county employees as the board of supervisors may authorize by ordinance, teachers and other employees of the San Francisco Unified School District retired under the San Francisco City and County Employees' Retirement System and resigned employees of the city and county and resigned teachers and employees of the school district whose resignations occur after June 15, 1955, and within 30 days immediately prior to the date on which, but for their resignations, they would have become retired members of the said retirement system, on whose relinquishment of retirement allowances as permitted by the charter occurs after such date and resigned employees of the San Francisco Unified School District not otherwise included. A resigned employee or teacher is one whose employment has terminated other than by retirement, discharge or death or who has relinquished retirement allowances. The purpose of empowering the health service board to make provision for the participation in the benefits of the system to the aforementioned resigned teachers and employees of the San Francisco Unified School District is to enable them, subject to the health service board's exercise of its power, to participate in the benefits of the system after transferring to the State Teachers' Retirement System from the San Francisco City and County Employees' Retirement System. The purpose of empowering the health service board to make provision for participation in the benefits of the system by the aforementioned resigned employees of the city and county and other resigned employees of San Francisco Unified School District is to permit the health service

board to have power to treat them the same as it treats resigned teachers and employees of the San Francisco Unified School District.

As used in this section, and for the purpose of this section, the terms "city and county employees" and "employees of the city and county" shall include officers and employees of the Parking Authority of the City and County of San Francisco.

The board of supervisors may also provide by ordinance for the continuation in any plan by former supervisors who agree to and do pay the full cost of such benefit.

#### A8.426 RIGHT OF SELECTION

No member of the health service system shall be required to accept the services or medical supplies of any physician (physician includes physicians and surgeons, optometrists, dentists, chiropodists and osteopathic and chiropractic practitioners licensed by California State Law and within the scope of their practice as defined by California State Law), person licensed to treat human diseases without the use of drugs, nurse, pharmacist or hospital selected by the health service board, but, subject to rules and regulations of that board, every member shall have the right to select, of his own choice, any duly licensed physician, as defined herein, person licensed to treat human diseases without the use of drugs, nurse, pharmacist, hospital or other agency of medical care as herein defined, who or which will render the required services pursuant to said rules and regulations, and the health service board shall make provision for the exercise of such choice; and is hereby expressly prohibited from entering into any exclusive contract for the rendering of said services.

Any duly licensed physician, as defined herein, person licensed to treat human diseases without the use of drugs, nurse, pharmacist, hospital or other agency of medical care shall have the right to furnish such services or medical supplies at uniform rates of compensation to be fixed by the health service board.

### A8.427 EFFECT OF OTHER CHARTER PROVISIONS

Except as otherwise specifically provided herein, all provisions of the charter shall be fully applicable to the health service board, the health service system and its medical director and employees in the same manner that they apply to other boards, commissions, and departments of the city and county.

### A8.428 HEALTH SERVICE SYSTEM FUND

There is hereby created a health service system fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons and because of the members and retired persons of the Parking Authority of the City and County of San Francisco, the San Francisco Unified School District because of its members and retired persons and the San Francisco Community College District because of its members and retired persons. A retired person as used in this section means a former member of the health service system retired under the San Francisco City and County Employees' Retirement System, and the surviving spouse of an active employee and the surviving spouse of a retired employee, provided that the surviving spouse and the active or retired employee have been married for a period of at least one year prior to the death of the active or retired employee.

The city and county, the school district and the community college district shall each contribute to the health service fund amounts sufficient for the following purposes, and subject to the following limitations:

- (a) All funds necessary to efficiently administer the health service system.
- (b) For the fiscal year commencing July 1, 1973, the city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to one-half of "the average contribution," as certified by the health service board in accordance with the provisions of Section 8.423. For the fiscal year commencing July 1, 1974, and each fiscal year thereafter, the city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to "the average contribution," as certified by the health service board in accordance with the provisions of Section 8.423.
- (c) Monthly contributions required from retired persons and the surviving spouses of active employees and retired persons participating in the system shall be equal to the monthly contributions required from members in the system, except that the total contributions required from retired persons who are also covered under Medicare shall be reduced by an amount equal to the amount contributed monthly by such persons to Medicare; provided, however, that for the fiscal year commencing July 1, 1973, and for each fiscal year thereafter, the city and county, the school district and the community college district shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to retired persons and the surviving spouses of active employees and retired persons as is provided for active employee members.
- (d) The city and county, the San Francisco Unified School District and the San Francisco Community College District shall not contribute to the health service system fund any sums, except as hereinbefore set forth, on account of participation in the benefits of the system by members' dependents, except surviving spouses, retired persons' dependents, except surviving spouses, persons who retired and elected not to receive benefits from San Francisco City and County Employees' Retirement System and resigned employees and teachers defined in Section 8.425, and any employee whose compensation is fixed in accordance with Sections 8.401, 8.403, or 8.404 of this charter and whose compensation therein includes an additional amount for health and welfare benefits or whose health service costs are reimbursed through any fund established for said purpose by ordinance of the board of supervisors.

It shall be the duty of the board of supervisors, the board of education and the governing board of the community college district annually to appropriate to the health service system fund such amounts as are necessary to cover the respective obligations of the city and county, the San Francisco Unified School District and the San Francisco Community College District hereby imposed. Contributions to the health service system fund of the city and county, of the school district and of the community college district shall be charged against the general fund or the school, utility, bond or other special fund concerned.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 6, 1984, shall be effective July 1, 1985.

# A8.429 CONTRIBUTIONS TO FUND

The health service board shall determine and certify to the controller the amount to be paid monthly by the members of the system to the health service system fund for the purposes of the system hereby created. The controller shall deduct said sums from the compensation of the members and shall deposit the same with the treasurer of the city and county to the credit of the health service system fund.

Such deductions shall not be deemed to be a reduction of compensation under

any provision of this charter.

The health service board shall have control of the administration and investment of the health service system fund, provided that all investments shall be of the character legal for insurance companies in California. Disbursements from the fund shall be made only upon audit by the controller and the controller shall have and exercise the accounting and auditing powers over the health service system fund which are vested in him by this charter with respect to all other municipal boards, officers and commissions.

# A8.430 "MEDICAL CARE" DEFINED

The term "medical care" shall be defined by the health service board. All acts performed and services rendered under the provisions of this section shall be performed in accordance with the provisions as to professional conduct prescribed by the statutes of the State of California regulating such professional conduct and services.

# A8.431 LIMITATION OF CLAIMS BY MEMBERS

Except as herein provided, members of the system shall have and possess no claim or recourse against any of the funds of the municipality by virtue of the adoption or operation of any plan for rendering medical care, indemnifying costs of said care or carrying insurance against such costs, but except as herein provided, the claim and recourse of any such member shall be limited solely to the funds of the system. All expenses of the system shall be paid exclusively from the health service system fund, and, except as herein provided, the city and county and the San Francisco Unified School District shall not appropriate or contribute funds in any manner for the purposes of the system hereby established and provided.

## A8.432 TRANSITION

The board of supervisors is authorized to enact by a vote of three-fourths of its members, any and all ordinances necessary to carry out the provisions of Sections 2 420 to and including 2 422

8.420 to and including 8.432.

Any surplus or deficit existing in the health service fund on February 5, 1958, shall belong to or be the obligation of members, as the case may be, and the city and county and the San Francisco Unified School District shall neither receive payment nor credit nor shall it contribute to such fund on account of medical care rendered prior to such date.

# A8.440 ANNUAL VACATIONS OF EMPLOYEES

- (a) Every person employed in the city and county service shall be allowed a vacation with pay annually, as long as he continues in his employment, as follows:
  - (1) After one year's continuous service, 10 working days.
  - (2) After five years' continuous service, 15 working days.
  - (3) After 15 years' continuous service, 20 working days.
- (b) Employees may elect not to take their entire vacation in any one year and in such event may accumulate the days allowable and not taken for use at some future time, provided, however, that no employee may accumulate unused vacation allowance in excess of 30 working days regardless of length of service.
- (c) In computing vacation pay, no employee shall be considered to work more than five days each week. Vacation pay for employees working less than a five-day week shall be computed proportionately.
- (d) If a holiday occurs during such employee's vacation, and the employee would as a matter of law have been entitled to said day as a regular day off, such holiday shall not be considered a day of vacation chargeable to the employee's vacation allowance.
- (e) The time when vacations are to be taken shall be at the convenience of the principal executive, with due regard for seniority.
- (f) An employee with one year or more of service who ceases to be employed by the city and county and who has neither received nor waived his current annual vacation allowance shall receive a pro-rata payment for all service performed since January 1 of the calendar year in which he ceases to be employed, together with an amount equivalent to any accumulated vacation allowances due him.
- (g) The board of supervisors shall enact any and all ordinances necessary to administer, interpret and regulate the provisions of Subsections (a) through (f) of this section.
- (h) Every employee of the City and County of San Francisco whose rate of compensation is fixed pursuant to the provisions of Sections 8.403 and 8.404 of this charter shall be entitled to receive an annual vacation at the time, with the pay and of the duration specified in this section and no section of the charter nor any provision of any collective bargaining agreement nor any street railway or bus wage schedule shall be construed in any manner or for any purpose to increase, reduce or otherwise affect the time or duration of, or pay for, vacations provided by this section nor shall any employee be deemed to have any vacation rights other than or in excess of the vacation rights specified in this section.
- (i) The vacation rights granted by this section, or contained in any collective bargaining agreements, or in any street railway or bus wage schedules, as any of said terms are referred to in Sections 8.403 and 8.404 of this charter, shall in no way increase, reduce or otherwise affect or be deemed to affect the wage or pay rate or schedule determinations made pursuant to the provisions of said Sections 8.403 and 8.404.

# A8.441 AUTHORIZATION TO TRANSFER VACATION CREDITS

(a) Employees of the City and County of San Francisco may individually transfer their vested vacation allowance credits to another individual employee of the City and County of San Francisco who has been determined to be catastrophically ill by the employee's head of department, in accord with the definition of catastrophic

illness to be provided by the Health Commission, and who has exhausted her or his vacation allowance, sick leave and compensatory time off, provided that such transfer may be made only in compliance with the terms and conditions established by the board of supervisors.

(b) The board of supervisors is hereby empowered to enact any and all ordinances necessary to administer, interpret and regulate the provisions of this section.

# A8.450 MUNICIPAL RAILWAY

Persons employed as platform men or bus operators in the operating department of the municipal railway system shall be subject to the following conditions of employment: The basic hours of labor shall be eight hours, to be completed within 10 consecutive hours, and there shall be two days off, consecutive where practicable, in each week. All labor performed in excess of eight hours in any one day, or after a spread of 10 consecutive hours in any one day, or five days in any one week, shall be paid for at the rate of time and one-half.

Conductors and motormen may be assigned to duty as bus operators and while assigned to such duty they shall receive the compensation fixed for such service. Such assignment shall be governed by seniority of service, subject to a qualifying test by the railroad management as to competency and to state laws as to qualifications and licensing.

#### A8.451 POLICE DEPARTMENT

- (a) The word "member" or "members" as used in this section shall mean the members in the police department set forth in Section 3.531 of this charter.
- (b) The basic week of service for each member shall be 40 hours and the annual compensation set forth in Section 3.531 of this charter shall be based upon said basic week of service.
- (c) Each member shall be entitled to at least two days off during each week, except as hereinafter provided.
- (d) Whenever in the judgment of the chief of police public interest or necessity requires the services of any member to serve in excess of the basic week of service during any week, the chief of police may permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this subsection. For service performed in excess of the basic week, member shall, as requested by the member, be compensated on the basis of time and one-half in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in Section 3.531 or in lieu thereof equivalent time off duty with pay at the rate of time and one-half.
- (e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in Section 8.440 of this charter, or the normal days off per week; provided, however, that when in the judgment of the chief of police public interest or necessity requires the services of any member to serve on his vacation, or part thereof, or normal days off, the chief of police may permit said member to serve during said vacation, or part thereof, or normal days off and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of time and one-half in accordance with the ratio which said extra

service performed bears to the basic week of service and the annual compensation provided therefor in Section 3.351.

- (f) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part 1, of the San Francisco Municipal Code, approving Rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.
- (g) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignment, prior to going on duty, the said commission may designate a period not to exceed 15 minutes in any one day for said reporting, and the said periods of 15 minutes need not be compensated for in money or in time off with pay.
- (h) Notwithstanding the provisions of any of the foregoing subsections, the members of the police department shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedules of compensations adopted by the board of supervisors pursuant to the provisions of Section 8.401 of the charter as additional days off with pay. Members shall be compensated on the basis of time and one-half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one-half as requested by the member.
- (i) The provisions of this section changing compensation for service in excess of the basic week of service from straight time compensation and equivalent time off duty with pay to time and one-half for compensation and for time off duty with pay shall be effective on and after July 1, 1983.
- (j) Any member who actually performs services between the hours of 5:00 p.m. and 7:00 a.m. shall be entitled to an additional 6.25 percent of the compensation otherwise payable for base pay therefor for all such hours worked; provided, however, that such additional compensation shall not be included for purposes of retirement benefit calculation or contributions provided elsewhere in this charter.

The provisions of this subsection shall become effective in the manner provided by law, but in no event prior to July 1, 1984.

### A8.452 FIRE DEPARTMENT

The chief of department shall recommend and the fire commission shall provide by rule for work schedules or tours of duty for the officers and members occupying the several ranks of the fire department; provided, however, that the normal work week determined on an annual basis for such officers and members shall not exceed 48.7 hours. All tours of duty established for officers and members assigned to the fire fighting companies and fire fighting units excepting the arson investigation unit, shall start at eight o'clock A.M. No such officer or member shall be required to work more than twenty-four consecutive hours except in a case of conflagration, disaster, or sudden and unexpected emergency of a temporary nature requiring the services of more than the available on-duty officers and members of the uniformed force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 48.7 hours in any normal work week nor 24 consecutive hours. Each such officer and each such member shall be entitled to at least one (1) day off duty during each week.

When, in the judgment of the chief of department, it is in the public interest that any such officer or member shall work on his day off and said officer or member consents to so work, he may at the direction of the chief of department work on said day off, and in addition to the regular compensation provided for said officer or member as set forth in the Charter, said officer or member shall, as requested by the officer or member, be entitled to be compensated at the rate of time and one-half his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off at the rate of time and one-half.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as defined in any provisions relating to the retirement system, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions.

Officers and members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensation are fixed on a monthly basis in the schedule of compensation adopted by the board of supervisors, pursuant to the provisions of Section 8.401 of the charter, as additional days off with pay. Officers or members shall be compensated for said days on the basis of time and one-half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one-half, as requested by the officer or member.

For payroll purposes, that portion of each tour of duty which falls within each calendar day shall constitute a single tour of duty. The rate of compensation or equivalent time off as provided for in this section, shall be calculated by dividing the annual rates of pay for each fiscal year by two-thirds (%) number of single tours of duty as scheduled for the several ranks in the fire fighting companies in said fiscal year.

#### A8.500 RETIREMENT SYSTEM FOR OFFICERS AND EMPLOYEES

In order to continue in force provisions already existing for retirement and death benefits for officers and employees of the city and county, the San Francisco City and County Employees' Retirement System, hereinafter referred to as the retirement system or the system, is hereby continued. The enactment of Sections 3.670, 3.672 and Sections 8.500 to 8.581, inclusive, of this charter is not intended to, and shall not in any way, alter or modify the rights, benefits, or obligations of any member or beneficiary of the retirement system or of the city and county with respect to that system as they exist at the time this charter becomes effective.

Ordinance provisions already existing with respect to the retirement system shall continue in force until amended or revoked by the board of supervisors as provided in this section. The board of supervisors is hereby empowered to enact, by a vote of three-fourths of its members, any and all ordinances necessary to carry into effect the provisions of Sections 3.670, 3.672 and Sections 8.500 through 8.588-15, of this charter; provided that the board of supervisors shall secure, through the retirement board, an actuarial report of the cost and effect of any proposed change in the benefits under the retirement system, before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change.

Subject to the vested rights rule, the board of supervisors is further empowered to enact, by a vote of three-fourths of its members, ordinances to conform the provisions of the retirement system to any changes in the tax laws of the United States

to the extent necessary to maintain the qualified tax status of the retirement system provided that the board of supervisors shall first secure, from the retirement board, an actuarial report of the cost and effect of any such change and the recommendation from the retirement board that such an ordinance is necessary.

The board of supervisors is further empowered to enact, by a vote of three-fourths of its members, ordinances to allow Internal Revenue Code section 414(h)(2) tax treatment of members' contributions to the retirement system provided that the board of supervisors shall first secure from the retirement board an actuarial report which certifies that such ordinances will not increase costs, other than administrative costs, for the city and county.

# A8.500-1 RECIPROCAL PENSION BENEFITS WITHIN THE RETIREMENT SYSTEM AND WITH OTHER PUBLIC PENSION PLANS

Subject to the provisions of Section 8.500, the board of supervisors shall have the power to enact ordinances to establish reciprocal agreements with the Public Employees' Retirement System and other public agencies maintaining independent retirement systems for the purpose of extending reciprocal benefits to members of such systems as provided by state law. The board of supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such agreements.

Subject to the provisions of Section 8.500, the board of supervisors is further empowered to enact ordinances necessary to extend reciprocal rights to members who transfer between Charter Sections 8.509, 8.559, 8.584, 8.585, 8.586, 8.588 provided that service under Sections 8.509 and 8.584 shall be used for qualification purposes only and not to calculate benefits under Sections 8.559, 8.585, 8.586 and 8.588. No ordinance enacted under this section shall extend reciprocal rights to any member who transferred from Charter section 8.559 or 8.585 to Charter section 8.509, 8.584, 8.586 or 8.588, before April 1, 1993. No ordinance enacted under this section shall extend reciprocal rights to any person who terminated his or her membership in the retirement system or retired before April 1, 1993. Subject to the above, reciprocal benefits under this paragraph shall be consistent with interpretations that have been made relative to the reciprocal benefit provisions of the Public Employees' Retirement System and 1937 County Employees' Retirement Act which this paragraph is intended to implement. The reciprocal benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, and no reciprocal benefits will be effective if they have an adverse impact on the tax qualified status of the retirement system under Section 401 of the Internal Revenue Code of 1986, as amended from time to time.

#### A8.500-2 DOMESTIC PARTNER BENEFITS

As used in Charter sections 8.428, 8.509, 8.559, 8.584, 8.585, 8.586 and 8.588, "surviving wife" shall also mean and include a "surviving spouse." As used in these sections, the phrases "surviving wife" and "surviving spouse" shall also mean and include a domestic partner, provided that:

(a) there is no surviving spouse, and

(b) the domestic partnership was established according to those provisions of Chapter 62 of the San Francisco Administrative Code which require the filing of a

signed Declaration of Domestic Partnership with the County Clerk. In addition, the Certificate showing that the Declaration of Domestic Partnership was filed with the County Clerk must be filed with the Retirement System at least one full year immediately prior to the effective date of the member's retirement or the member's death if the member should die before retirement.

A monthly allowance equal to what would otherwise be payable to a surviving spouse shall be paid to the said surviving domestic partner, until he or she dies, marries or establishes a new domestic partnership. The domestic partner benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. No domestic partner benefits will be effective if they have an adverse impact on the tax qualified status of the retirement system under Section 401 of the Internal Revenue Code of 1986, as amended from time to time.

### A8.501 RETIREMENT OF ELECTIVE OFFICERS

Notwithstanding the provisions of Section 8.500 of this charter, elective officers, except members of the board of supervisors and of boards and commissions, shall be members of the San Francisco City and County Employees' Retirement System and shall be subject to all of the conditions applying to other members thereof, except members of the fire and police departments, and except as herein otherwise provided. In the determination of contributions and benefits of any officer becoming a member of the retirement system by virtue of the provisions hereof, that part of the salary of such officer which exceeds \$1,000 per month shall be excluded. Elective officers in office on January 7, 1947, and otherwise eligible to the provisions hereof shall have the option to become members of said retirement system to be exercised in writing on a form furnished by the retirement system and to be filed at the office of such system not later than 90 days after January 7, 1947.

Each such present and future elective officer may retire at his option but only after having attained the age of 70 years and only after having occupied such an elective office or having been otherwise employed in a position subject to membership in the retirement system for at least 20 years immediately preceding retirement, and may retire by filing written application therefor with the retirement board, and the mayor shall thereupon appoint a qualified person for the unexpired term of office remaining at the time of any such retirement. Such elective officer shall thereafter receive a retirement allowance equal to one-half of the compensation received by him at the time of retirement, provided that such allowance shall not exceed \$500 per month. Contributions required to provide the portion of the benefits under this section not provided by the member's contribution shall be paid to the retirement system by the city and county.

#### A8.502 RETIREMENT OF ELECTIVE OFFICERS

Notwithstanding the provisions of Section 8.501 of this charter, elective officers, except members of boards and commissions, shall be members of the San Francisco City and County Employees' Retirement System under Section 8.509 instead of Section 8.501; and, notwithstanding the provisions of Subsection (b) of Section 8.509, elective officers who are members of the retirement system under Section 8.509 shall be retired on the day following the end of the term of office in which the age of 70 years is attained. Contributions, with credited interest, standing to the credit of such individual officers shall be adjusted as of January 9, 1953, to the amount which they

would have been if the contributions had been made in accordance with Section 8.507 prior to July 1, 1947, and Section 8.509 after June 30, 1947. Time during which said members have rendered service as elective officers shall be included under Subsection (g) of Section 8.509, in addition to other time now so included. Contributions required to provide benefits based on service rendered as an elective officer prior to the effective date of membership in the retirement system, shall be paid to the retirement system in the manner provided in Section 8.509 for contributions for service rendered prior to the date upon which the member's rate of contribution is based. Elective officers in office on January 9, 1953, who are members of the retirement system under Section 8.501 at such time, shall have the option to continue as members of the retirement system under Section 8.501, instead of this section, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than 90 days after January 9, 1953.

# A8.503 RETIREMENT—COURT EMPLOYEES AND ATTACHES

Employees and attaches of the superior or municipal court, including persons performing duties performed under the titles of commissioners, phonographic reporters who are paid compensation on a monthly or per diem basis by the city and county, secretaries, stenographers, investigators, messengers and other employees of the superior and municipal courts, in and for the City and County of San Francisco, shall be members of the San Francisco City and County Employees' Retirement System under Section 8.509, and shall be subject to all of the conditions applying to other members under that section, except as herein otherwise provided.

Service rendered to the said superior or municipal court in and for the city and county, other than as a phonographic reporter, by persons prior to becoming members under this section on February 1, 1953, shall be credited under the retirement system to such persons, provided that it would have qualified for credit when rendered, if said persons had been subject then, as they will be under this section, to the provisions of Section 8.509 of this charter and of the ordinances and provisions of the Municipal Code of the City and County of San Francisco relating to retirement of members under said section.

Service rendered to said superior court on and after September 15, 1945, or to said municipal court on and after September 1, 1947, by phonographic reporters prior to becoming members under this section on February 1, 1953, shall be credited under this retirement system to such persons.

Said service, rendered prior to becoming a member under this section on February 1, 1953, shall only be credited to each of such persons if he elect, by written notice, on a form provided by retirement system, filed in the office of the retirement board of said system prior to July 1, 1953, to receive credit for all or any part of said service, and to pay into the retirement fund, at times and in the manner hereinafter provided, the following amounts:

- (a) an amount equal to the normal contributions he would have contributed, had he been a member of the retirement system under Section 8.509, during the time for which he has elected to receive credit for service, on the basis of compensation paid to him by the city and county on account of said service, and
- (b) an amount equal to the interest which would have been credited to his account on account of such contributions from the date upon which they would have been made, to the date of payment of such contributions to the retirement system.

However, a member shall not receive credit for any portion of such service rendered prior to April 1, 1922, unless he has elected to receive credit for, and has paid into the retirement fund such amount with respect to, all of said service rendered after March 31, 1922. Such amounts shall be paid into the retirement fund by lump sum payment, or payroll deductions or other installments, over a period not exceeding 36 months from July 1, 1953, provided that any balance remaining unpaid at his retirement shall become due and payable forthwith. Benefits, not provided by such amounts, granted to said persons on account of said service rendered prior to February 1, 1953, shall be provided by contributions of the city and county. Such service shall include time during which such person was absent from a status included in the paragraph above by reason of service in the armed forces of the United States in any war in which the United States has engaged.

Notwithstanding the foregoing provisions, any such employee or attache not already a member of the system and who is such an employee or attache on February 1, 1953, shall not become a member of the retirement system, unless he elect prior to July 1, 1953, on a form provided by the retirement system, to be a member of said system, and if he does not so elect, he shall not be a member of the retirement system, and shall not be prevented from continuing in such employment by reason of such provision.

# A8.504 RETIREMENT—PARKING AUTHORITY EMPLOYEES

Officers and employees of the Parking Authority of the city and county shall become members of the San Francisco City and County Employees' Retirement System under Section 8.509 on February 1, 1963, and thereupon shall be subject to all conditions applying to other members under that section inclusive of the provisions of Section 8.514 of the charter, except as herein otherwise provided; provided, however, that members of such authority are excluded from the San Francisco City and County Employees' Retirement System.

Service rendered to the said Parking Authority by persons prior to becoming members under this section on February 1, 1963, shall be credited under the Retirement System to such persons, subject to the terms and conditions provided herein. Said service shall only be credited to each of such persons if he elect, by written notice, on a form provided by the retirement system and filed in the office of the retirement board of said system prior to July 1, 1963, to receive credit for said service, and to pay into the retirement fund, at times and in the manner fixed by the Retirement Board, the following amounts:

- (a) an amount equal to the normal contributions he would have contributed, had he been a member of the retirement system under Section 8.509, during the period in which said service was rendered, on the basis of compensation paid to him by the city and county on account of said service and
- (b) an amount equal to the interest which would have been credited to his account on account of such contributions from the date upon which they would have been made, to the date of payment of such contributions to the retirement system; provided that any balance remaining unpaid at his retirement shall become due and payable forthwith. If any such person shall not so elect to receive credit for said service and to pay such amounts of contributions and interest, or having so elected, subsequently does not pay into the retirement fund such amounts at times and in the manner herein provided, and prior to February 1, 1963, he shall enter as a new

member without credit for any of said service, any monies theretofore received from him as payment on such amounts together with accumulated interest thereon shall be refunded to him, and the rate of his contribution shall be the normal rate provided in Subsection (h) of Section 8.509 at his age on February 1, 1963, otherwise his rate of contributions shall be the rate provided in said Subsection (h) of Section 8.509 based on his age at the earliest date in the period for which said service is credited. Benefits, not provided by such amounts, granted to said persons on account of said service rendered prior to the effective date of membership under this section, shall be provided by contributions of the city and county.

Notwithstanding the foregoing provisions, any such officer or employee not already a member of the system and who is such an officer or employee on February 1, 1963, shall not become a member of the retirement system, unless he elects to be a member of said system, in writing, on a form provided by the retirement system and filed in the office of the retirement system prior to July 1, 1963; if he does not so elect he shall not be a member of the retirement system, and shall not be prevented from continuing in such employment by reason of the provisions of this section.

### A8.505 RETIREMENT—PORT AUTHORITY EMPLOYEES

All employees of the Port Authority who, on February 7, 1969, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, with all the rights, privileges and benefits of said system and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

All employees of the Port Authority who, at the time the transfer provided for herein shall go into effect, are covered under the provisions of a retirement program other than the Public Employees' Retirement System of the State of California shall thereafter continue to be covered under such retirement program and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the coverage of such employees under such retirement program.

Persons who, after February 7, 1969, become employees of the city and county in positions related to the operation of the State Belt Railroad and who become covered under the provisions of the Railroad Retirement Act by virtue of their employment in such positions shall not be members of the San Francisco City and County Employees' Retirement System.

### A8.506 SHERIFF'S DEPARTMENT

Notwithstanding any other provisions of this charter, the board of supervisors shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that the sheriff, undersheriff and all deputized personnel of the sheriff's department shall be members of the Public Employees' Retirement System, and the board of supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract. The maximum employee contribution for sheriff,

undersheriff and deputized personnel of the sheriff's department shall be seven and one-half percent (7-1/2%). Required contributions exceeding seven and one-half percent (7-1/2%) shall be made by the City and County.

Any person who shall become a member of the Public Employees' Retirement System pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provisions for participation in the benefits of the health service system by such persons.

# A8.506-1 TEACHERS IN THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT AND SAN FRANCISCO COMMUNITY COLLEGE DISTRICT

Notwithstanding any other provisions of this charter, the board of supervisors shall have the power to perform any and all acts necessary or appropriate to implement any provisions of the Education Code of the State of California which contemplate that teachers in the San Francisco Unified School District and the San Francisco Community College District shall not be members of the San Francisco City and County Employees' Retirement System but shall be members only of the State Teachers' Retirement System or which contemplate that such teachers may elect to be members of the State Teachers' Retirement System and not to be members of the San Francisco City and County Employees' Retirement System.

# A 8.506-2 MISCELLANEOUS SAFETY EMPLOYEES

Notwithstanding any other provisions of this charter, the board of supervisors or the community college board shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that the probation officers, airport police officers, district attorney and public defender investigators, coroner investigators, juvenile court counselors, institutional police, fire safety inspectors and fire protection engineers who are not members of the Section 8.588 plans, shall be members of the public employees' retirement system, and the board of supervisors, the community college board and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract.

The power to contract created herein shall be limited to a contract with no net increase in cost to the city and county or the community college district.

Any person who shall become a member of the public employees' retirement system pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provision for the participation in the benefits of the health service system by such persons.

# A8.506-3 HOUSING AUTHORITY POLICE

All Housing Police Officers of the Housing Authority who, on July 1, 1984, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, and they shall not be members of the San Francisco City and County Employees' Retirement System. Notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

Notwithstanding any other provisions of this charter, the board of supervisors shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that Housing Authority Police hired after July 1, 1984, shall be members of the Public Employees' Retirement System, and the board of supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract.

Any person who shall become a member of the Public Employees' Retirement System pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provision for participation in the benefits of the health service system by such persons.

# **A8.506-4 PER DIEM NURSES ON JANUARY 1, 1988.**

Registered nurses, hired and compensated by the department of health on a per diem basis, shall not be members of the retirement system or subject to the provisions of the retirement system by reason of such employment.

Members of the retirement system on the effective date of this section shall have the option to be exercised in writing on a form to be furnished by the retirement board and to be filed at the office of the retirement system not later than March 31, 1988, to exclude compensation for per diem nursing as compensation for all retirement system purposes.

The provisions of this section shall be prospective only, shall be effective January 1, 1988 and shall not give any person a claim for refund of pension contributions prior to January 1, 1988.

# A8.507 MISCELLANEOUS OFFICERS AND EMPLOYEES ON JANUARY 8, 1932

Persons who are officers and employees of this city and county on January 8, 1932, shall become members of the retirement system subject only to the following provisions, in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.510, 8.511, 8.520, 8.525 and 8.560, of this charter.

- (a) The system shall be applied to such offices, departments, bureaus, or classes of officers or employees of the city and county, including teachers in the San Francisco school department, as the supervisors shall determine; provided, however, that the contributions to be made by said teachers and the benefits to be received by said teachers under said retirement system shall be based upon the proportion of salaries of said teachers which have been and shall be paid out of funds contributed by the city and county, excluding therefrom the portion of such salaries which have been or shall be paid out of funds contributed by the State of California; and in determining such proportion it shall be taken to be the same proportion which the whole amount of money contributed by the city and county to the common school fund in any fiscal year bears to the whole amount of money contributed to such fund in such year by the state and by the city and county; and provided, further, that nothing herein contained shall be construed to deprive any teacher of the right to receive benefits under any pension or retirement system now or hereafter established by the State of California.
- (b) No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have

attained the age of 62 years and completed 10 years of continuous service, but retirement shall be compulsory at the age of 70 years. It may be provided, however, under such retirement system, that members may retire after 30 years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below 62, in accordance with the tables recommended by the actuary and approved by said retirement board.

(c) All persons who were retired prior to October 1, 1925, from service as teachers in the public schools of San Francisco, under the provisions of the law of 1913, establishing the California Public School Teachers' Retirement Salary Fund, shall be entitled to and shall receive retirement allowances, to be calculated on the same basis as that established for determining the retirement allowances provided for members of the said retirement system.

# A8.508 PACIFIC GAS & ELECTRIC COMPANY EMPLOYEES

The board of supervisors shall have the power to provide by ordinance retirement benefits for persons who become employees of the City and County of San Francisco under any lease, or other temporary arrangement, entered into between said city and county and the Pacific Gas & Electric Company, and because of their employment by said company at the effective date of said lease, or other temporary arrangement. The effect of said ordinance shall be to provide essentially the same retirement benefits for said employees on account of service rendered under said lease, or other temporary arrangement, as if said persons had been employees of said company throughout the term of said lease.

The further effect of said ordinance shall be to provide for permanent retirement rights for said persons, in the event they become employees of said city and county upon purchase or other permanent acquisition of the properties of said company, essentially the same benefits on account of service rendered as employees of said city and county, as they would have received if they had been members throughout said service of the San Francisco City and County Employees Retirement System on the same basis as other employees of said city and county, except members of fire or police departments.

# A8.509 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES ON AND AFTER JULY 1, 1947

Miscellaneous officers and employees, as defined in this section, who are members of the retirement system under this section of the charter on February 1, 1969, and persons who become miscellaneous officers and employees after February 1, 1969, shall be members of the retirement system, subject to the following provisions of this section, in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.510 and 8.520 of this charter notwithstanding the provisions of any other section of the charter, provided that the retirement system shall be applied to persons employed on a part-time, temporary or substitute basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees of the said departments who are members of the retirement system under Section 8.507 of the charter on February 1, 1969 shall continue to be members of the system under Section 8.507 and shall not be subject to any of the provisions of this section, except as specifically provided in this section.

(a) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payments is definitely provided by the context.

"Compensation," as distinguished from benefits under the workers' compensation laws of the State of California, shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning of the absence, and that prior to entering city-service he was in the position first held by him in city-service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any five consecutive years of credited service in the retirement system in which his average final compensation is the highest, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

For the purposes of the retirement system and of this section, the terms "miscellaneous officer or employee," or "member," as used in this section shall mean any officer or employee who is not a member of the fire or police department as defined in the charter for the purpose of the retirement system, under Section 8.507 of the charter.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural; and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

(b) Any member who completes at least 20 years of service in the aggregate credited in the retirement system, and attains the age of 50 years, or at least 10 years of service in the aggregate credited in the retirement system, and attains the age of 60 years, said service to be computed under Subsection (g) hereof, may retire from service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of 65 years. A member retired after reaching the age of 60 years shall receive a service retirement allowance at the rate of two percent of said average final compensation for each year of service; provided, however, that upon the compulsory retirement of a member upon his attainment of the age of 65 years, if the allowance available to such member, pursuant to the provisions of Subsection (f) of this section, shall be greater in amount than the service retirement allowance otherwise payable to such member under this Subsection (b),

then such member shall receive as his service retirement allowance, in lieu of the allowance otherwise payable under this Subsection (b), an allowance computed in accordance with the formula provided in said Subsection (f). The service retirement allowance of any member retiring prior to attaining the age of 60 years, after rendering 20 years or more of such service and having attained the age of 50 years, computed under Subsection (g), shall be an allowance equal to the percentage of said average final compensation set forth opposite his age at retirement, taken to the preceding completed quarter year, for each year of service, computed under Subsection (g):

Age at Retirement	Percent for Each Year of Credited Service
50	1.0000
501/4	1.0250
501/2	1.0500
503/4	1.0750
51	1.1000
511/4	1.1250
511/2	1.1500
513/4	1.1750
52	1.2000
521/4	1.2250
521/2	1.2500
523/4	1.2750
53	1.3000
531/4	1.3250
531/2	1.3500
53¾	1.3750
54	1.4000
541/4	1.4250
541/2	1.4500
543/4	1.4750
55	1.5000
551/4	1.5250
551/2	1.5500
55¾	1.5750
56	1.6000
561/4	1.6250
561/2	1.6500
56¾	1.6750
57	1.7000
571/4	1.7250
571/2	1.7500
573/4	1.7750
58	1.8000
581/4	1.8250

1.8500
1.8750
1.9000
1.9250
1.9500
1.9750
2.000

In no event shall a member's retirement allowance exceed 75 percent of his average final compensation.

Before the first payment of a retirement allowance is made, a member retired under this subsection or Subsection (c) of this section, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits; provided, however, that at any time within 30 days after the date on which his compulsory retirement would otherwise have become effective, a member who has attained the age of 65 years may elect, without right of revocation, to withdraw his accumulated contributions, said election to be exercised in writing on a form furnished by the retirement system and filed at the office of said system, and a member so electing shall be considered as having terminated his membership in said system on the date immediately preceding the date on which his compulsory retirement would otherwise have become effective, and he shall be paid forthwith his accumulated contributions, with interest credited thereon. Notwithstanding the provisions of Section 8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than \$100 per month upon retirement after 30 years of service and after attaining the age of 60 years, and provided further that as to any member with 15 years or more of service at the compulsory retirement age of 65, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than \$100 per month. In the calculations under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service; provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this subsection providing for a minimum retirement allowance. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced, shall be applied on full time service and compensation in the calculations of retirement allowances.

(c) Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least 10 years of service credited in the retirement system in the aggregate, computed as provided in Subsection (g) hereof, shall be retired upon an allowance of one and eight-tenths percent of the average final

compensation of said member, as defined in Subsection (a) hereof for each year of credited service, if such retirement allowance exceeds 40 percent of his average final compensation; otherwise one and eight-tenths percent of his average final compensation multiplied by the number of years of city-service which would be credited to him were such city-service to continue until attainment by him of age 60, but such retirement allowance shall not exceed 40 percent of such average final compensation. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the one year immediately preceding his retirement. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced, shall be applied as full-time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

- (d) No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workers' compensation laws of the State of California.
- (e) If a member shall die, before retirement, (1) If no benefit is payable under subdivision (2) of this subsection (e):
- (A) Regardless of cause, a death benefit shall be paid to the member's estate or designated beneficiary consisting of the compensation earnable by the member during the six months immediately preceding death, plus the member's contributions and interest credited thereon.
- (B) If a member sustains a traumatic bodily injury through external and violent means in the course and scope of employment and death results within 180 days of such injury, an additional insurance benefit of 12 months of compensation earnable shall be paid to the member's estate or designated beneficiary.
- (2) If, at the date of his death, he was qualified for service retirement by reason of service and age under the provisions of Subsection (b) of this section, and he has designated as beneficiary his surviving spouse, who was married to him for at least one full year immediately prior to the date of his death, one-half of the retirement allowance to which the member would have been entitled if he had retired from service on the date of his death, shall be paid to such surviving spouse who was his designated-beneficiary at the date of his death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of 18 years, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If, at the death of such surviving spouse, who was receiving an allowance under this Subdivision (2), there be one or more unmarried children of such member under the age of 18 years, such allowance shall

continue to such child or children, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If the total of the payments of allowance made pursuant to this Subdivision (2) is less than the benefit which was otherwise payable under Subdivision (1) of this subsection, the amount of said benefit payable under Subdivision (1) less an amount equal to the total of the payments of allowance made pursuant to this Subdivision (2) shall be paid in lump sum as follows:

- (A) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.
- (B) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in Subdivision (1) of this subsection in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election, but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of 18 years, may make the election herein provided before benefit has been paid under this Subsection (e), for and on behalf of such children if, in his judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this Subsection (e), any allowance payable under this Subdivision (2) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

(f) Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and reemployment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that if such member is entitled to be credited with at least 10 years of service or if his accumulated contributions exceed \$1,000, he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. A person who elects to allow his accumulated contributions to remain in the retirement fund shall be subject to the same age requirements as apply to other members under this section for service

retirement, but he shall not be subject to a minimum service requirement. Upon the qualification of such member for retirement by reason of age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus  $1-\frac{1}{3}$  percent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid to his estate or designated beneficiary.

(g) The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such

member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the retirement system and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

- (2) Service in the fire and police departments which is not credited as service of a member under this section shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under this section, provided that the accumulated contribution standing to the credit of such member shall be adjusted by refund to the member or by payment of the member, to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous employee throughout the period of his service in either such departments at the compensation he received in such departments.
- (3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not deemed absence from service under the provisions of Section 8.520 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

(4) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under Section 8.507.

- (5) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service under the retirement system of service, other than military service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.
- (h) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:
- (1) There shall be deducted from each payment of compensation paid to a member under Section 8.509 a sum equal to 7-1/2 percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted

on account of said member under Section 8.509, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.509(e) and 8.509(f).

- (2) Contributions based on time included in paragraphs (1) and (3) of Subsection (g), and deducted prior to July 1, 1947, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members, and shall be combined with and administered in the same manner as the contributions deducted after said date.
- (3) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, on July 1, 1948, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.
- (4) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Subsection (h), to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder, which shall be based on service rendered by each member prior to the date upon which his rate of contribution is determined in paragraph (1), Subsection (h), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder, which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members under this section, said percentage to be the ratio of the value of the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement, and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year, and said investigation into the experience under the system shall be made every odd-numbered year.

Notwithstanding the provisions of this Subdivision (4), any additional liabilities created by the amendments of this Section 8.509 contained in the proposition therefor submitted to the electorate on November 6, 1973, shall be amortized over a period of 30 years.

(5) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county, held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in the section shall affect

the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on July 1, 1947, in the accounts of said system by debits against the city and county.

- (i) Upon the completion of the years of service set forth in Subsection (b) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said Subsection (b), and nothing shall deprive said member of said right.
- (j) Except as otherwise provided in section 8.511 of this charter, no person retired under this section, for service or disability and entitled to receive a retirement allowance under the retirement system, shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.
- (k) Any section or part of any section in this charter, insofar as it should conflict with this section, or with any part thereof, shall be superseded by the contents of this section. In the event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.
- (1) Notwithstanding the provisions of Subsections (b), (c), (f), and (i) of this section, any member convicted of a crime involving moral turpitude, committed in connection with his duties as an officer or employee of the City and County of San Francisco, shall, upon his removal from office or employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Subsection (b) of this section, he shall have the right to elect, without right of revocation and within 90 days after his removal from office or employment, whether to withdraw all of his accumulated contributions or to receive as his sole benefit under the retirement system, an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such removal from office or employment.
- (m) The amendments of this section contained in the proposition submitted to the electorate on November 6, 1984 are hereby declared to be prospective and shall not give any person a claim against the city and county relating to a death prior to ratification of this amendment by the State Legislature.

### A8.510 ACTUARIAL TABLES, RATES AND VALUATIONS

The mortality, service and other tables, and the rates of contributions for members as recommended by the actuary and the valuations determined by him and approved by the retirement board, shall be conclusive and final, and the retirement system shall be based thereon. The total amount, as determined by the actuary and approved by the board, of the contributions required during any fiscal year of the city and county under the retirement system, shall be paid into the retirement system by the city and county during such year. Liabilities accruing under the retirement system because of service rendered to the city and county by persons prior to the date their respective classes become eligible for membership in the system, and administrative

costs under the system, shall be met by contributions to the retirement system by the city and county, in addition to any amounts contributed to meet liabilities accruing because of service rendered by such persons after becoming members of the system, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall not be less than the amount disbursed during that year on account of prior service. All expenses in connection with the investment of such fund or funds as may be established, including but not limited to travel and transportation costs, investment seminar expenses, postage, insurance, telephone, and subscriptions to investment publications, shall be paid from the accumulated contributions of the city and county.

Notwithstanding the provisions of Section 8.509(h)(5), said actuarial valuation and said investigation into the experience under the system shall be made as determined by the retirement board; provided, however, that said actuarial valuation shall be made not less than once every two years. All expenses in connection with said actuarial valuation and said investigation into the experience under the system; all expenses incurred by financial audits and accounting systems and procedures; and, all expenses of administration of plan benefits, including legal expenses thereof, shall be paid from the accumulated contributions of the city and county.

Contributions to the retirement system required of the city and county shall be charged by the controller against the general fund or the school, utility, bond or other special fund under which the service was rendered, on account of which the contribution is required; provided that contributions required on account of service rendered by any person prior to becoming a member of the system, under a temporary fund, such as bond or county roads funds, or a fund then no longer existing, may be charged against the general fund, and provided further, that any contributions required on account of persons receiving benefits under subdivision (c) of Section 8.507, shall be charged against the general fund.

### A8.511 PENSIONS OF RETIRED PERSONS

- (a) Except as provided in subsection (c) of this section, no person retired for service or disability, and in receipt of a retirement allowance under the retirement system, shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror, or in the preparation for or the giving of testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative or administrative body, shall not be affected by this section or by Section 8.509, Section 8.546 or Section 8.581 of the charter.
- (b) Should any retired person, except persons retired for service prior to January 8, 1932, and persons retired because of disability incurred in the performance of duty, engage in a gainful occupation prior to attaining the age of 62, the retirement board shall reduce that part of his/her monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him/her in such occupation, shall not exceed the compensation on the basis of which his/her pension or retirement allowance was determined.

- (c) Limited employment in positions requiring special skills or knowledge:
- (1) A retired person, who is a certificated employee, may enter into a consultancy contract with the San Francisco Unified School District or the San Francisco Community College District to the extent authorized by state law. Notwithstanding any other provisions of this charter to the contrary, a certificated employee who enters into such a consultancy contract shall not be reinstated as a member of the retirement system. No deduction shall be made from his or her compensation as contributions to the retirement system, and his or her retirement allowance shall not be terminated or suspended.
- (2) A retired person may be employed in a position other than a certificated position, requiring special skills or knowledge, for not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year and may be paid for that employment. That employment shall not operate to reinstate the person as a member of the retirement system or to terminate or suspend the member's retirement allowance, and no deductions shall be made from his or her salary as contributions to the retirement system. Furthermore, this employment shall not replace a permanent civil service employee.

### A8.512 RELINQUISHMENT OF CERTAIN RETIREMENT ALLOWANCES

Any person who retired under the San Francisco City and County Employees' Retirement System from an employment status in which he was a member of the State Teachers' Retirement System, and whose retirement was effective after June 30, 1955, and not later than 90 days after February 1, 1957, may elect, in writing on a form provided by the retirement system and to be filed at the office of said system within 90 days after February 1, 1957, to relinquish his right to a retirement allowance from said City and County Employees' Retirement System. If such person so elects to relinquish said right, his retirement allowance shall be cancelled forthwith and no payments of such allowance shall be made to him, or on his account, for time on and after the effective date of such election, and such election shall be irrevocable. The San Francisco City and County Employees' Retirement System shall pay or be liable to pay to or on account of such person, only an amount equal to the actuarial equivalent, as of the effective date of such relinquishment, and on the basis of the mortality tables and interest rate then used under the system, of the portion of the cancelled allowance which was provided by said person's accumulated contributions at the effective date of his retirement. An amount equal to such actuarial equivalent shall be forwarded forthwith to the Retirement Annuity Fund of said State Teachers' System, to be applied on the amount due to said fund from said person under the provisions of Division (7), Chapter 14 of the Education Code of the State of California, but not to exceed the amount so due as may be quoted in a written statement requested of and received from said State Teachers' Retirement System as applied to any person herein involved. Any excess of the actuarial equivalent over said amount so quoted as due shall be paid forthwith to said person.

# A8.513 CREDIT ON CURRENT CONTRIBUTIONS, FOR CERTAIN PUBLIC RESERVES RELEASED BY WITHDRAWAL OR RELINQUISHMENT BY RETIRING OR RETIRED TEACHERS

In the event that any teacher or other employee of the board of education resigns and withdraws during or after the fiscal year which will end June 30, 1957, his accumulated contributions from the San Francisco City and County Employees' Retirement System, and instead, within 90 days after such withdrawal is in the status of a person retired under the State Teachers' Retirement System of California on an allowance based on the full allowance formulae under said state system, the contributions which the San Francisco Unified School District is required to make to said City and County Employees' Retirement System on account of service rendered by employees of such unified school district as such members of such system, in accordance with the rate of contribution determined under Section 8.509 of the charter. shall be reduced by an amount equal to the actuarial equivalent as of the day next following the date of such withdrawal, of the portion of the allowance to which such person would have been entitled from said City and County Employees' Retirement System, if he had not resigned, and which would have been based on his service as a member of such City and County Employees' Retirement System, minus the amount of his accumulated normal contributions withdrawn.

In the event that any person retired under the San Francisco City and County Employees' Retirement System from an employment status in which he was a member of the State Teachers' Retirement System, has elected or elects to relinquish his right to a retirement allowance from said City and County Employees' Retirement System, the contributions which the San Francisco Unified School District is required to make to the City and County Employees' Retirement System on account of service rendered by employees of such unified school district as members of such system in accordance with the rate of contribution determined under Section 8.509 of the charter, shall be reduced by an amount equal to the actuarial equivalent as of the effective date of such relinquishment, and as determined in connection with such relinquishment, of the portion of the allowance to which said person would have been entitled had he not so elected, and which was based on his service as a member of the City and County Employees' Retirement System, minus the actuarial equivalent determined in connection with such relinquishment of the portion of the cancelled allowance which was provided by said person's accumulated normal contributions at the effective date of his retirement.

If the total of the actuarial equivalents by which the contributions required of the San Francisco Unified School District in any year are to be reduced, exceeds such contributions, the amount of the excess shall be carried over to subsequent fiscal years and applied to reduce such contributions for such years in chronological order.

#### A8.514 SOCIAL SECURITY COVERAGE

The board of supervisors may enact, by a vote of three-fourths of its members, an ordinance or ordinances prescribing the conditions according to which any and all employees of the San Francisco Unified School District and employees of the City and County of San Francisco, other than members of the fire and police department as defined in Section 8.560, may be covered under the Federal Old-Age and Survivors Disability Insurance provisions of the Federal Social Security Act, subject to the

provisions of this section. "City and county" as hereinafter used shall mean the City and County of San Francisco and the San Francisco Unified School District.

(a) Any member of the San Francisco City and County Employees' Retirement System, hereinafter referred to as the system, who is or becomes covered by the Federal Old-Age and Survivors Disability Insurance provisions of the Federal Social Security Act, hereinafter referred to as the Act, shall continue to contribute to the system the normal contributions required of him, except that he shall have the right to reduce his normal contributions under the system at his option to be exercised by an election on the system's form, said election to be effective on the first day of the month next following its filing in the system's office. Such reduction of normal contributions shall apply only to time during which said member is covered under the Act, and after February 1, 1959, and the amount of said reduction, which may be changed from time to time by said member, in accordance with rules and regulations of the Retirement Board, shall not be more than the amount of said member's contribution under the Act.

Any allowance payable to or on account of such member by the system shall be reduced on the effective date of said allowance by the actuarial equivalent on that date of the normal contributions, including interest to said date, with which said member would have been but was not credited under the system because of said reduction in his normal contributions and because of amounts paid from such member's accumulated contributions for the retroactive period hereinafter provided for, and any continuation of said allowance shall be based on such reduced allowance but said allowance shall not be effected otherwise by the member's reduction of his normal contributions. Said member shall have the right to contribute amounts, which shall be administered as additional contributions, to replace all or part of such reduction in his retirement allowance.

- (b) The reductions in allowances and contributions of members shall be made as provided in the foregoing paragraphs, notwithstanding any provisions in the charter to the contrary.
- (c) Every employee covered by the agreement providing coverage under the Act shall be liable for the employee contributions required by the Act.
- (d) The effective date of coverage under the Act may be made retroactive to such date as the board of supervisors may determine.

Contributions required under the Act of each member for time included by the retroactive application shall be paid from such member's accumulated contributions held by the system on account of his compensation not in excess of the maximum compensation taxable under this Act for such retroactive time. If the required contributions under the Act exceed the member's accumulated contributions held by the system so determined, the additional contributions under the Act equal to the excess shall be paid by the member. Contributions required under the Act of the employer on account of such retroactive period shall be paid from funds held by the system on account of active members and derived from contributions of the city and county.

(e) Any member who is covered by Section 210(1) of the Act on the effective date of the agreement between the state and federal government to extend coverage to the members of the system under the Act shall not be subject to this section unless he elect to be covered in accordance with this section, such election to be on a form furnished by the system and to be filed in the office of the system not later than 180

days after the effective date of such agreement. Such election shall be irrevocable. Such election shall fix the status of the member under such coverage as the same in all respects as if he had not been covered under Section 210(1), except that there shall be no adjustment of the member's accumulated contributions or of the funds held by the system, and derived from contributions of the city and county, on account of social security tax for such retroactive period.

Each member who enters the employ of the municipal railway after the effective date of the agreement between the state and federal government to extend coverage to other members of the system under the Act, shall be covered under the Act in accordance with the terms of this section and the ordinance or ordinances enacted pursuant thereto.

- (f) Provision shall be made for modification of the member's retirement allowances at his option, if he retires before he attains the minimum age of qualification for his primary benefit under the Act, in such manner that will make his increased monthly retirement allowance under the system prior to attainment of such age equal to the sum of his decreased monthly allowance after attainment of such age, and his primary benefit under the Act, upon the basis of an estimated primary benefit under the Act, subject to the requirement that the amounts of the increase and decrease in the monthly allowance shall be actuarially equivalent, and that the increase shall not be modified under an option provided by ordinance.
- (g) Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.
- (h) The contribution rates of the city and county applicable to various membership under Section 8.509 shall be adjusted to rates determined by the actuary according to methods stated in Section 8.509.
- (i) The board of supervisors shall submit to the eligible employees for purposes of referendum, as defined in the Act, the question as to whether they desire coverage under the Act in accordance with conditions prescribed in this section.
- (j) The powers of the board of supervisors granted in Section 8.500 shall include the authority to make such adjustments in the retirement system, by a vote of three-fourths of its members, as are not made by this section, but as required because of changes in the Act, to carry out the purposes of this section.

#### A8.515 COMPENSATION INSURANCE PAYMENTS

The benefit provisions of the workmen's compensation laws included in the Labor Code of the State of California, as they effect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be reinsured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in Section 8.509 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special officer shall receive the benefits of such compensation law from any other source.

Whenever any member of the fire or police department, as defined in Sections 8.545, 8.565, and 8.569, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in or illness caused by the performance of his duty as determined by the retirement board, he shall become entitled, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary as fixed by the charter, while so disabled, for a period or periods not exceeding 12 months in the aggregate, with respect to any one injury or illness. Said disability benefits shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workmen's compensation laws included in said Labor Code, shall be considered as in lieu of such benefits, payable to such person under the said code concurrently with said disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code. Medical treatment which may become necessary to relieve or cure said member from the effects of the injury or illness shall be furnished by the city and county, in the same manner that such treatment is furnished under said Labor Code, but without first requiring continuing awards of such treatment by the Industrial Accident Commission of the State of California, relating to impairments of permanent or of extended and uncertain duration. The provisions of this paragraph shall be administered exclusively by the retirement board, and the city and county and unified school district and community college district shall pay to the retirement system during each fiscal year, an amount equal to the total disability benefits paid by said system during the fiscal year and, pursuant to applicable provisions of the Administrative Code of the city and county, the unified school district and community college district shall pay to the retirement system during each fiscal year, a proportionate share of the costs of administering workers compensation benefits on behalf of employees of said school and college districts.

A member of the fire or police department shall receive credits as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit. Contributions for the retirement system shall be deducted from said benefits in the same manner as they would be deducted from salary paid to him, and the city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member.

#### A8.516 DISABILITY BENEFITS

Whenever any member of the police or fire department, as defined in Sections 8.586-1 and 8.588-1, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in, or illness caused by, the performance of his duty, as determined by the retirement board, he shall become entitled with respect to any one injury or illness, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary, while so disabled, for a period or periods not exceeding 12 months in the aggregate, or until such earlier date as he is retired, whether for service or disability.

Said disability benefit shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workers' compensation laws included in said Labor Code, shall be considered as in lieu of such benefits payable to such person under the said code concurrently with said disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code.

The provisions of this section shall be administered exclusively by the retirement board, and the city and county shall pay to the retirement system during each fiscal year an amount equal to the total disability benefits paid by said system during that year.

A member of the police or fire department shall receive credit as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit; provided, however, that contributions for the retirement system shall be deducted from payments of such disability benefits paid to him. The city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member.

### A8.517 ELIMINATION OF MANDATORY RETIREMENT

Notwithstanding the provisions of Subsection (b) of Section 8.509 and Section 8.584-2, members subject to said sections shall not be required to retire upon attainment of the age of 65 years. Any member who attains the age of 65 years with less than 10 years of credited service in the aggregate in the retirement system and who would have been subject to compulsory retirement upon the attainment of the age of 65 years in the absence of the provisions of this Section 8.517 may elect to retire upon the first day of the month next following the month in which he or she attains the age of 65 years and receive the allowance he or she would have received if this Section 8.517 had not been in effect; provided, however, that any such member who elects not to so retire and continues as a member after the first day of the month next following his or her attainment of the age of 65 years shall not be entitled to receive a service retirement allowance until completion of the years of credited service required by the provisions of said Subsection (b) of Section 8.509 or Section 8.584-2, as the case may be, in order to qualify for service retirement.

The provisions of this Section 8.517 do not and shall not entitle any person retired under the retirement system to be re-employed.

### A8.518 HEARING OFFICER

Notwithstanding the provisions of Section 3.671, Subsection (c) of Section 8.509, Sections 8.515, 8.516, 8.547, 8.548, 8.559-3, 8.559-4, 8.571, 8.572, 8.584-3, 8.585-3, 8.585-4, 8.586-3, 8.586-4, 8.588-3 or 8.588-4, any application for disability leave, disability retirement, or death allowance made pursuant to said subsection of said sections of this charter shall be heard by a qualified and unbiased hearing officer employed under contract by the retirement board and selected by procedures set forth in the rules of the retirement board. The retirement board shall have the power to establish rules setting forth the qualifications and selection procedure necessary to appoint a qualified and unbiased hearing officer.

Following public hearing, the hearing officer shall determine whether such

application shall be granted or denied.

All expenses relating to processing and adjudicating the above applications, including but not limited to the cost of hearing officer, legal, investigative, and court reporter services, shall be paid from the compensation fund.

At any time within 30 days after the service of the hearing officer's decision, the applicant or any other affected party, including the retirement system, may petition the hearing officer for a rehearing upon one or more of the following grounds and no other:

- a. That the hearing officer acted without or in excess of his powers.
- b. That the decision was procured by fraud.
- c. That the evidence does not justify the decision.

d. That the petitioner has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.

Upon the expiration of 30 days after the petition for rehearing is denied, or if the petition is granted, upon the expiration of 30 days after the rendition of the decision or hearing, the decision of the hearing officer shall be final. Such final decision shall not be subject to amendment, modification or rescission by the retirement board, but shall be subject to review by the retirement board only for the purpose of determining whether to seek judicial review, and such final decision shall be deemed for all purposes to be the decision of the retirement board.

The provisions of this section shall become operative on October 1, 1980.

### A8.519 RETIREMENT SYSTEM CREDIT FOR REPRESENTATIVE SERVICE

Notwithstanding any other provision of this charter, any member of the retirement system who is on leave of absence and serving on a full time basis as an employee representative for a recognized employee organization and representing city and county employees, shall have the right to make contributions and obtain service credit with the retirement system subject to the terms of this section.

For purposes of this section, compensation shall mean the remuneration paid in cash, as it may change from time to time, attached to the rank or position held by the member while on leave. For members whose pay hours are established by the choice of assignment, shift, or run based on seniority, compensations shall mean an amount computed by applying the current wage rate for such members as it may change from time to time, to the hours in the assignment, shift, or run held by the member immediately prior to the commencement of his or her leave.

There shall be no cost to the city and county for representative service. The member shall be responsible for transmittal of all contributions which would ordinarily be paid by the member and the city and county. No service credit will be allowed unless and until all contributions are received by the retirement system. The organization may agree to pay the employer contributions which would ordinarily be paid by the city and county. The member shall pay the member contributions. If the organization does not pay the employer contributions the member must pay those contributions in order to obtain representative service credit.

A member may receive credit for representative service prior to January 1, 1988, pursuant to the preceding paragraph, when agreed by the member and the organization.

The retirement board shall have the authority to establish procedures to calculate compensation and collect contributions plus interest for representative service. The calculation of compensation herein shall also be used in determining the average final compensation in computing the member's retirement allowance.

This section shall be effective January 1, 1988. This section shall not apply to retirement system members or their successors in interest who retired or terminated prior to January 1, 1988. This section shall not apply to representative service prior to a member's effective date of membership with the retirement system.

At the request of any city employee, who is a member of the State of California Public Employees' Retirement System and who takes a leave of absence to serve on a full time basis as an employee representative for a recognized employee organization representing City and County employees, the City shall, subject to the statutes and regulations of the Public Employees' Retirement System, submit to the Board of Administration of the Public Employees' Retirement System proposed amendments to the contract between the City and County and that retirement system to allow such person to make contributions and obtain service credit during the leave of absence.

The duty to submit proposed contract amendments shall be limited to amendments which shall not provide for or allow any cost to the city and county.

#### A8.520 CONTINUOUS SERVICE

(a) Continuous service shall be defined by the board of supervisors, but the absence prior to September 14, 1940, of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

On and after September 14, 1940, a member is absent on military service when he is absent from city service by reason of:

- (1) service with the armed forces of the United States or the State of California;
- (2) service on ships operated by or for the United States government when such service is granted as "military leave" pursuant to section 3.670 and 3.671 of the charter:
- (3) service connected with the war effort for which leaves of absence shall be authorized pursuant to Sections 3.670 and 3.671 of the charter; or

(4) any other service, under an order of the government of the United States or the State of California, or by lawful order of any of the departments or offices of said governments, provided that such absence in any of such services occurs:

(A) either during a war involving the United States as a belligerent or in time of national emergency, declared by the President of the United States or by the Congress, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in line of duty with said armed forces or said ships when such disability extends beyond such period; or

(B) in time of peace if he is drafted for such services by the United States

government or volunteers for such service while subject to such draft.

For the purpose of this section a war involving the United States as a belligerent exists:

(1) whenever Congress has declared any war which has not been terminated by a truce, treaty of peace, or otherwise;

(2) whenever the United States is engaged in active military operations against

any foreign power, whether or not war has been formally declared; or

(3) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.

(b) Any member so absent on military service may contribute to the retirement system during such absence, at times and in the manner prescribed by the board, amounts equal to the contributions which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence, if he had remained in city service.

Any member who makes the contributions as provided in the preceding paragraph shall receive credit for the absence as service in the manner as if he had not been absent. If, however, a member does not affirmatively exercise the option herein provided, or if he exercised it affirmatively and defaults in any of the contributions due to the retirement system under said election, and in either event if such contributions are not made for him, he shall be considered absent during the period for which no contributions are made, and he shall not receive credit as service for the city and county for such period; but the absence during such period shall not break the continuity of such service required of such member to entitle him to a retirement allowance, as provided under the retirement system.

Any member who was absent on military service and who did not make the contributions as provided in this section, and whose contributions are not paid for him by the city and county as provided herein, may make such contributions upon his return to city service at times and in the manner prescribed by the board. If he does so contribute, he shall receive credit for the absence as service in the same manner as if he had not been absent.

When a member makes the contributions as provided herein, the same contributions shall be made by the city and county, in respect to such absence, that would have been made if the member had not been absent on military service, except that such contributions shall be determined by the employer's rate of contribution in effect when such contributions are made, and on the basis of his compensation earnable at the commencement of his absence.

- (c) Notwithstanding other provisions of this charter to the contrary, the city and county shall contribute for each member of this system who was absent on military service after September 14, 1940, amounts equal to the contribution which would have been made by such member and the City and County of San Francisco on the basis of his compensation earnable at the commencement of his absence, provided that the member's base pay in such military service is less than \$100 per month, and provided, further:
- (1) that if the absence in military service was by reason of service in the armed forces of the United States;
  - (2) that the absence began on or after June 25, 1950; and
- (3) that the member's base pay in such service was less than \$250 per month, the city and county shall pay the contributions which would have been made by both the member and the city and county on the basis of his compensation earnable at the commencement of his absence. Contributions made by the city and county, in lieu of contributions which otherwise would be required of the member, shall be administered as if made by said member as normal contributions. Any such member who exercises or did exercise the right to contribute to the system during the period of absence on military service, and whose contributions otherwise would be paid by the city and county under this section, shall have his contributions plus credited interest, refunded.
- (d) Absence commencing on or after December 7, 1941, of any member of the retirement system from city service caused by reason of his evacuation or exclusion from the city and county by an authorized military commander because such member was of Japanese ancestry shall not be deemed to be absent from service for purposes of the retirement system, for the period of such absence, provided that he returned to city service within one year after the termination of his evacuation or exclusion, and provided further that upon his return to city service, and at times and in the manner prescribed by the retirement board, he elects to contribute to the retirement system amounts equal to the contributions which would have-been made by him to the system on the basis of his compensation earnable at the commencement of his absence, if he had remained in city service.

Any member who makes the contributions as provided in the preceding paragraph shall receive credit under the retirement system for the absence as service in the same manner as if he had not been absent. If, however, a member does not affirmatively elect to make such contributions as herein provided, or if he affirmatively elects to make such contributions and defaults in any of the contributions due to the retirement system as herein provided, he shall be considered absent during the period for which no contributions are made, and he shall not receive credit in the retirement system as service for the city and county for such period; but the absence during such period shall not break the continuity of such service required of such member to entitle him to a retirement allowance as provided under the retirement system.

When a member makes the contributions as provided herein, the same contributions shall be made by the city and county in respect to such absence that would have been made by the city and county if the member had not been absent because of such evacuation or exclusion, except that such contributions shall be determined by the employer's rate of contribution in effect when such contributions are made, and on the basis of his compensation earnable at the commencement of his absence.

(e) Notwithstanding any other provision of this charter, any member who entered military service from a position with the Market Street Railway Company, was absent on such military service on September 29, 1944, and thereafter commenced employment with the Municipal Railway of the City and County of San Francisco within one year after his discharge from such military service, shall have the right to elect to make contributions as provided in this section and to receive credit in this system as city service for all or any part of the time on and after September 29, 1944, during which he was in such military service.

Any member who elects, pursuant to this section, to make contributions and to receive credit for such time, shall contribute to the Retirement System an amount determined by applying the rate of contribution first applicable to him on the effective date of his membership in the Retirement System to the monthly compensation earnable by him on said date, together with interest on said amount at the rate of interest being used from time to time under the retirement system.

The board of supervisors shall provide by ordinance the time and manner for making said contributions and for the crediting of such service as city service.

### A8.521 CREDIT FOR CERTAIN MILITARY SERVICE

Notwithstanding any other provisions of this charter, any member who was serving in the armed forces of the United States or the State of California during the time of war or any emergency lawfully declared by the President of the United States, who had standing on an eligible list for appointment to a permanent position and was reached for certification to a permanent position while so serving, shall have the right to elect to make contributions as provided in this section and to receive credit in this system as city service for all or any part of the time after he was so reached during which he was so serving; provided, however, that no member shall have such right unless he entered into employment with the city and county as a result of such certification made in accordance with the provisions of Section 8.361 of the charter within one year after his discharge from such armed forces.

Any member who elects, pursuant to this section, to make contributions and receive credit for such time, shall contribute to the retirement system an amount determined by applying the rate of contribution first applicable to him on the effective date of his membership in the retirement system to the monthly compensation earnable by him on said date, together with interest on said amount at the rates of interest being used from time to time under the retirement system.

The board of supervisors shall provide by ordinance the time and manner for making said contributions and for the crediting of such service as service credit.

### A8.525 CONTRIBUTIONS TO RETIREMENT FUND

The city and county shall contribute jointly with the members of the retirement system to meet the liabilities accruing under the system because of service rendered to the city and county by persons after becoming members of the system. Members of the system shall contribute not to exceed 10 percent of their salaries or wages, provided that members may, at their option, elect to contribute at rates in addition to those fixed as normal by the retirement board. The city and county shall contribute an amount equal to normal contributions of members as provided for in the preceding sentence, but the city and county shall not contribute any amount because of additional contributions by members.

### A8.526 COST OF LIVING ADJUSTMENT IN ALLOWANCES

(a) Each retirement or death allowance which is not subject to change when the salary rate of any member is changed and which is payable to or on account of any member who has retired or died prior to July 1, 1967, except such allowances payable to or on account of persons who retired or died prior to July 1, 1947, as members under Section 8.507, but including death allowances payable under Section 8.561 which are not subject to change when the salary rate of any member is changed, shall be increased for time on and after July 1, 1968, by the percentage set forth in the following table opposite the fiscal year in which said allowance became effective, said percentage to be applied to the allowance payable to the individual who was receiving the allowance on July 1, 1968, (a) exclusive of the annuity provided by additional contributions and (b) prior to reduction pursuant to Subsection (a) of Section 8.514:

Fiscal year in which allowance became effective	Percentage
All years prior to July 1, 1959	16%
July 1, 1959 to June 30, 1960	14%
July 1, 1960 to June 30, 1961	12%
July 1, 1961 to June 30, 1962	10%
July 1, 1962 to June 30, 1963	8%
July 1, 1963 to June 30, 1964	6%
July 1, 1964 to June 30, 1965	4%
July 1, 1965 to June 30, 1966	2%
July 1, 1966 to June 30, 1967	1%

- (1) Funds, necessary for the payment of such increases in allowances payable to, or on account of, members who retired or died as members under charter Sections 8.507 or 8.509, shall be provided from the city's accumulated contributions held by the system on account of miscellaneous members under Section 8.509.
- (2) Funds, necessary for the payment of such increases in allowances to, or on account of, members who retired or died as members under charter Sections 8.543 or 8.544, shall be provided from the city's accumulated contributions held by the system on account of police members under Section 8.544.
- (3) Funds, necessary for the payment of such increases in allowances to, or on account of, members who retired or died as members under charter Sections 8.567 or 8.568, shall be provided from the city's accumulated contributions held by the system on account of fire members under Section 8.568.

The necessary funds shall be transferred on the effective date of this section from said accumulated contributions to the accumulated contributions held by the system to meet the obligations of the city and county on account of benefits that have been granted and which are based on services rendered as members. The contribution being required of the city and county currently, as percentages of salaries of persons who are members under Sections 8.509, 8.544 and 8.568, shall be increased to percentages determined by the actuary as necessary to replace the accumulated contributions so transferred.

- (b)(1) The retirement board shall determine, prior to April 1 of each year, the percentage of increase or decrease in the cost of living during the preceding calendar year or years, as shown by the then current Consumer Price Index, All Items, San Francisco (1957-59=100), issued by the U.S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. The cost of living adjustments as hereinafter provided shall be based on the percentage of such increase or decrease.
- (2) Notwithstanding any other charter or ordinance provision governing the retirement system, every retirement or death allowance payable to, or on account of, any member who retires or dies as a member of the system or who has retired or died as such a member, except allowances subject to change when the salary rate of any member is changed, shall be increased or decreased as of July 1, 1969, and on July 1, of each succeeding year, subject to the provisions of this Subsection (b), by a percentage of the allowance established on July 1, 1968, after any increase under Subsection (a) of this section or on the effective date of such allowance, whichever is later, as payable to the individual who is receiving the allowance on the date of any such adjustment (a) exclusive of the annuity provided by additional contributions, and prior to modification pursuant to Subsection (f) of Section 8.514. On July 1, 1969, the percentage of increase in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent, the percentage of increase in the cost of living during the preceding calendar year. On July 1, 1970, and on July 1 of each succeeding year, the percentage of increase or decrease in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent of increase or decrease in the cost of living in the calendar year or years since January 1, 1969, or since January 1 of the year in which the last such cost of living adjustment in allowances was made, whichever is later. Such adjustment in any year shall not exceed two percent of such allowance; provided, however, that no allowance shall be reduced below the amount being received by the member or his beneficiary on July 1, 1968, or on the effective date he began to receive the allowance, whichever is later.
- (3) Commencing with the calendar year 1982, if the percentage of increase or decrease in the cost of living in any calendar year, as determined to the nearest one percent by the retirement board, were to exceed two percent as compared with the cost of living in the next preceding calendar year, the percentage of increase or decrease in the cost of living in excess of two percent, shall be accumulated to provide increases or decreases in the cost of living in each succeeding calendar year.
- (4) Any such increase in allowances which are not funded by such allocations of such earnings, shall be funded by contributions of members under Sections 8.507, 8.509, 8.544, 8.568, 8.584, 8.586 and 8.588, and by contributions of the city, which shall be at rates which are in addition to the rates of contribution otherwise provided by charter or ordinance, provided that a member's rate of contribution shall not exceed one-half of one percent of his monthly compensation. The contributions made under this section by any member, shall be credited together with regular interest thereon to his individual account and shall be subject to the same charter and ordinance provisions relating to accumulated contributions of the member, including withdrawal and death benefits other than death allowances, provided, however, that upon his retirement or death, such accumulated contributions and interest shall not be applied to provide a part of the retirement benefits payable to him or the death allowance

CH-171 (12-96)

benefits payable on account of his death otherwise provided by charter or ordinance, but instead shall be held, together with the accumulated contributions made by the city pursuant to this Subsection (b), with interest thereon, to provide the benefits under this Subsection (b).

(5) The rates of contribution of members and the city, as provided herein, shall be fixed by the retirement board from time to time as it determines necessary.

### A8.526-1 SUPPLEMENTAL COST OF LIVING BENEFIT

Starting on July 1, 1997, the Retirement Board shall establish in the Retirement Fund a Reserve Account. Funds in this Reserve Account shall be used to provide supplemental cost of living benefit adjustments to retirement allowances in addition to cost of living adjustments now provided for in the Charter. Funds placed in this Reserve Account shall consist of all earnings of the Retirement Fund in the previous fiscal year which are in excess of the expected earnings on the actuarial value of the assets. The expected earnings are the earnings projected by the actuarial assumption for return on assets that was in place for that fiscal year. The maximum amount of funds to be placed in this Reserve Account shall not exceed the amount of funds projected to be necessary to fund benefits provided pursuant to this section for that fiscal year and the following two fiscal years.

The funds in this Reserve Account shall be used solely to provide supplemental cost of living benefit adjustments as follows:

- (a) On July 1, 1997 and July 1 of each succeeding year, if there are sufficient funds in this Reserve Account, each retirement allowance or death allowance payable on account of a member who died, including retirement allowances subject to change when the salary rate of a member is changed, shall be increased by an amount equal to three percent (3%) of the allowance, less the amount of any cost of living adjustment provided pursuant to Section 8.526 and less the amount of any cost of living adjustment, payable in that fiscal year, which is the result of a change in the salary of the member.
- (b) On July 1, 1997, if there are sufficient funds in this Reserve Account, each retirement allowance payable to or account of a member who was retired on or before December 31, 1979 as a member under Sections 8.507 or 8.509 or 8.584 shall be increased by a monthly amount equal to \$3 for each complete year of retirement. In computing years of retirement, the Retirement System shall count completed fiscal years between the member's effective date of retirement and June 30, 1997.

The supplemental cost of living benefit adjustments described above will not be paid in any fiscal year in which there are insufficient funds in the Reserve Account on July 1 to pay for full supplemental payments for that year. In that event, pensions will revert to the level they would have been if supplemental cost of living benefit adjustments had never been made.

If supplemental cost of living benefit adjustments are not made in any fiscal year, then, in subsequent years, excess earnings will be accumulated in this Reserve Account until there are sufficient funds to pay full year's supplemental cost of living benefit adjustment. Subsequent supplemental cost of living benefit adjustments will be based on the reduced pension level described above; that is, on the level pensions would have been if supplemental cost of living benefit adjustments had never been made. (Added November 1996)

(12-96) CH-172

### A8.527 COMMUNITY PROPERTY RIGHTS

Subject to the vested rights rule, the board of supervisors is empowered to enact, by a vote of three-fourths of its members, ordinances to amend the provisions of the retirement system to conform with the community property provisions of Civil Code Sections 4800 and 4800.8, provided that the board of supervisors shall first secure, through the retirement board, an actuarial report of the cost and effect of any such change and provided further that any such ordinances shall not increase overall retirement system benefits costs.

### A8.530 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES PRIOR TO JULY 1, 1947

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on January 1, 1950, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under Section 8.507, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to January 1, 1950 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for any time prior to January 1, 1950. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on January 1, 1950, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options, is not living on January 1, 1950, or if the retired member is not living on January 1, 1950, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system, necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon January 1, 1950, from said reserves to the reserves held by the

CH-172.1 (12-96)

retirement system to meet the obligations, on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under Section 8.509, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system, necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

## A8.531 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 1, 1947

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on February 1, 1953, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under Section 165 of the charter of 1932, as amended, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to February 1, 1953, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to February 1, 1953. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on February 1, 1953, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on February 1, 1953, or if the retired member is not living on February 1, 1953, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increase in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon February 1, 1953, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under Section 8.509, shall be increased to percentages determined by the actuary as neces-

sary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

## A8.532 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 1, 1952

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on April 1, 1956, to or on account of any person who has retired prior to July 1, 1952, as a member of said system under Section 165 of the Charter of 1932, as amended, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to April 1, 1956, or his successors in interest, any claim against the city and county for any increase in any retirement allowances paid or payable for time prior to April 1, 1956. If a member elected at retirement to have his retirement allowance modified under Option 2 or 3, provided by ordinance, and if the member and his beneficiary are living on April 1, 1956, the increase in the allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on April 1, 1956, or if the retired member is not living on April 1, 1956, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon April 1, 1956, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under Section 8.509 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

## A8.533 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 1, 1947

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on March 1, 1964, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under Section 8.507, formerly Section 165 of the charter of 1932, as amended, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of service, then said monthly increase shall be an amount which shall bear the same ratio to \$25, that the service with which the member was entitled to be credited at the effective date of his retirement, bears to 20 years. This section does not give any member retired prior to March 1, 1964, or his successor in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for the time prior to March 1, 1964. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if both he and his beneficiary are living on March 1, 1964, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rates. If the beneficiary of such a person who elected at retirement to have his allowance under one of said options is not living on March 1, 1964, or if the retired member is not living on March 1, 1964, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system, and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon March 1, 1964, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members.

The contribution being required of the city currently, as percentages of salaries of persons who are members under Section 8.509 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with references to prior services, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

## A8.534 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1952

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, from time commencing on February 1, 1957, to or on account of any person who was retired prior to July 2, 1952, as a member of said system under Section 8.509 formerly Section 165.2 of the charter of 1932, as amended, and to or on account of any person who was retired prior to July 2, 1952, but not prior to July 1, 1952, as a member of said system under Section 8.507, formerly Section 165 of the charter of 1932, as amended, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to February 1, 1957, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to February 1, 1957. If a member elected at retirement to have his retirement allowance modified under Option 2 or 3, provided by ordinance, and if the member and his beneficiary are living on February 1, 1957, the increase in the allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on February 1, 1957, or if the retired member is not living on February 1, 1957, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon February 1, 1957, from said reserves to the reserves held by the retirement system to meet the obligations of the city and county on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently as percentages of salaries of persons who are members under Section 8.509, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with references to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

## A8.535 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED ON OR AFTER JULY 1, 1947, AND PRIOR TO APRIL 1, 1966

Every retirement allowance payable to or on account of a member who retired under the provisions of Section 8.509 (formerly Section 165.2 of the charter of 1932) on or after July 1, 1947, and prior to April 1, 1966, is hereby increased for time commencing on the effective date of this section, hereby designated as the first day of the month next following ratification by the State Legislature, to the amount it would have been if such allowance had been computed, on the date such member's retirement allowance was first effective, as if "average final compensation" were defined as the average monthly compensation earned by a member during any three consecutive years of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of said Section 8.509, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to the effective date of this section.

Any increase in any retirement allowance resulting from the calculation provided in this section shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of Section 8.526 (formerly Section 164.1 of the charter of 1932).

## A8.536 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED ON OR AFTER JULY 1, 1947, AND PRIOR TO JULY 1, 1974

- (a) Every retirement allowance payable to or on account of a member who retired, for service under the provisions of Subsection (b) of Section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, after having attained the age of 60 years, is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowances had been computed, on the date such retirement allowance was first effective, on the basis of two percent of such member's average final compensation for each year of credited service.
- (b) Every retirement allowance payable to or on account of a member who retired, for service under the provisions of Subsection (b) of Section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, prior to having attained the age of 60 years is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowance had been computed, on the date such retirement allowance was first effective, on the basis of the percent of such member's average final compensation for each year of credited service as is set forth in the following table opposite his age at retirement, taken to the preceding completed quarter year:

Percent for			
Each Year of			
Credited Service			
3333333 231,120			
1.5000			
1.5250			
1.5500			
1.5750			
1.6000			
1.6250			
1.6500			
1.6750			
1.7000			
1.7250			
1.7500			
1.7750			
1.8000			
1.8250			
1.8500			
1.8750			
1.9000			
1.9250			
1.9500			
1.9750			

In no event shall a member's retirement allowance, as increased under the provisions of paragraph (a) or (b) of this section, exceed 75 percent of his average final compensation.

- (c) Every retirement allowance payable to or on account of a member who retired for disability under the provisions of Subsection (c) of Section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowance had been computed, on the date such retirement allowance was first effective as follows:
- (1) On the basis of one and eight-tenths percent of such member's average final compensation for each year credited service, if such retirement allowance exceeds 40 percent of his said average final compensation;
- (2) If such retirement allowance, as increased, does not exceed 40 percent of such member's average final compensation, the increase provided under this section shall be computed on the basis of one and eight-tenths percent of his average final compensation multiplied by the number of years of city-service which would be credited to him were such city-service to continue until attainment by him of the age of 60 years; provided, however, that such retirement allowance shall not exceed 40 percent of his said average final compensation.

With respect to members whose retirement allowances were first effective prior to January 1, 1972, "average final compensation" as used in this Section 8.536 shall mean the average monthly compensation earned by the member during any 12 consecutive months of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of Section 8.509, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1974.

Any increase in any retirement allowance resulting from the recalculation provided for in this section, shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of Section 8.526 of this charter.

## A8.537 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED UNDER SECTION 8.507 PRIOR TO JANUARY 1, 1972

Every retirement allowance payable to or on account of a member who retired under the provisions of Section 8.507 (formerly Section 165 of the charter of 1932) prior to January 1, 1972, is hereby increased for time commencing on the effective date of this section, hereby designated as the first day of the month next following ratification by the State legislature, to the amount it would have been if such allowance had been computed, on the date such member's retirement allowance was first effective, as if the provisions of Section 8.509, as they exist on the effective date of this section, had been in effect and applicable to such member, and as if "average final compensation" were defined as the average monthly compensation earned by a member during any 12 consecutive months of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of said Section 8.507, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to the effective date of this section.

Any increase in any retirement allowance resulting from the calculation provided in this section shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of Section 8.526 (formerly Section 164.1 of the charter of 1932).

Section 8.537 does not authorize any decrease in any allowance from the amount being paid as of June 4, 1974.

### A8.538 INCREASING OF CERTAIN RETIREMENT ALLOWANCES IN EFFECT PRIOR TO JULY 1, 1977

Every retirement allowance payable to a male person, or to the beneficiary of a male person, retired prior to July 1, 1977, as a member under the provisions of Sections 8.507, 8.509, 8.544 or 8.568 and subject to an optional modification pursuant to an election exercised under Section 16.75 of the San Francisco Administrative Code is hereby increased for time commencing January 1, 1978, to the amount it would have been if such allowance had been computed, on the date such allowance was first effective, on the basis of the mortality tables applicable to the retirement system on January 1, 1978.

This section does not give any person retired under the provisions of Sections 8.507, 8.509, 8.544 or 8.568, or such person's successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to January 1, 1978.

Any adjustment of retirement allowances made pursuant to the provisions of Section 8.526 of this charter for time after June 30, 1978, shall be based upon the amount of the original retirement allowance plus the amount of the increase to be applied by the provisions of this section.

## A8.539 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1980

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, from time commencing on July 1, 1982 to or on account of any person who was retired prior to July 2, 1980, as a member of said system under Section 8.509 formerly Section 165.2 of the charter of 1932, as amended; and to or on account of any person who was retired prior to July 2, 1980, as a member of said system under Section 8.507, formerly Section 165 of the charter of 1932, as amended; and to or on account of any person who was retired prior to July 2. 1980, as a member of said system under Sections 8.584, 8.586 and 8.588 of this charter, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio of \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to July 1, 1982 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1982.

Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, from the reserves held by the retirement system on account of miscellaneous members, cost of living benefits, the necessary amount being transferred upon July 1, 1982, from said reserves to the reserves held by the retirement system to meet the obligations of the city and county on account of benefits that have been granted and on account of prior service of members. The contributions being required of the city and county currently as percentages of salaries of persons who are members under Sections 8.509, 8.584, 8.586, and 8.588 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred.

## A8.539-1 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1985

Commencing on July 1, 1987, every retirement allowance payable by the San Francisco City and County Employees' Retirement System, to or on account of any person who was retired prior to July 2, 1985 as a member of said system under Sections 8.507, 8.509, 8.584, 8.586 or 8.588 of this charter, is hereby increased by the amount of \$50.00 per month, provided such member had retired prior to July 2, 1961. If the member had retired after July 1, 1961, then said monthly increase shall be an amount which shall bear the same ratio to \$50.00 that the number of years the member has been retired bears to twenty-five (25) years.

In computing years of retirement, the retirement system shall count completed fiscal years between the member's effective date of retirement and June 30, 1986.

This section does not give any member retired prior to July 1, 1987 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1987.

## A8.539-2 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1988

Commencing on July 1, 1990, every retirement allowance payable by the San Francisco City and County Employees' Retirement System, to or on account of any person who was retired prior to July 2, 1988 as a member of said system under sections 8.507, 8.509, 8.584, 8.586 or 8.588 of this charter, is hereby increased by the amount of \$50.00 per month, provided such member had retired prior to July 2, 1964. If the member had retired after July 1, 1964, then said monthly increase shall be an amount which shall bear the same ratio to \$50.00 that the number of years the member has been retired bears to twenty-five (25) years.

In computing years of retirement, the retirement system shall count completed fiscal years between the member's effective date of retirement and June 30, 1989.

This section does not give any member retired prior to July 1, 1990 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1990.

## A8.539-3 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1991

Commencing on July 1, 1993, every retirement allowance payable by the San Francisco City and County Employees' Retirement System, to or on account of any person who was retired prior to July 2, 1991 as a member of said system under sections 8.507, 8.509, 8.584, 8.586 or 8.588 of this charter, is hereby increased by the amount of \$75.00 per month, provided such member had retired prior to July 2, 1967. If the member had retired after July 1, 1967, then said monthly increase shall be an amount which shall bear the same ratio to \$75.00 that the number of years the member has been retired bears to twenty-five (25) years.

In computing years of retirement, the retirement system shall count completed fiscal years between the member's effective date of retirement and June 30, 1992.

This section does not give any member retired prior to July 1, 1993 or his or her successors in interest, any claim against the City and County of San Francisco for any increase in any retirement allowance paid or payable for time prior to July 1, 1993.

### A8.540 MEMBERS OF THE POLICE DEPARTMENT ON JANUARY 8, 1932

Persons who are members of the police department on the eighth day of January, 1932, shall become members of the retirement system on that date, subject to the following provisions in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.502, 8.511, 8.520, and 8.560 of this charter:

(a) Any member of the department who has arrived or shall arrive at the age of 62 years, and who has completed 30 years of continuous service as an active member of the department next preceding his retirement, may retire from service at his option, provided that retirement shall be compulsory at the age of 70 years. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half of the amount of the monthly salary attached to the rank held by him three years prior to the date of his retirement, hereinafter referred to in this section and Section 8.542 as a "pension."

Before the first payment of the pension is made, such retired member may elect to receive the actuarial equivalent of his pension, partly in a pension to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits.

- (b) Any member of the department who shall become physically disabled by reason of any bodily injury received in the performance of his duty, may be retired upon a monthly pension, as defined in subdivision (a), of this section, payable throughout his life. In case his disability shall cease, his pension shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.
- (c) The family of any member of the department who may be killed or injured while in the performance of his duties, and who shall have died within 3 years from the date of such injury as a result of such injury, shall receive the following benefits and the receipt by such member of a pension under this section during his lifetime shall not bar said family from such benefits:

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, such widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury; provided, however, that should said widow die, leaving a child or children under the age of 16 years, said pension shall continue to such child or such children collectively until the youngest child arrives at the age of 16 years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of 16 years, such child or children collectively shall receive a monthly pension equal to one-half of the salary attached to the rank held by their father at the time of his said injury until the youngest attains the age of 16 years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents depending solely upon him for support, such parents, so depending, shall collectively receive a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury during such time as the retirement board may unanimously determine its necessity.

(d) A sum equal to the contributions, with interest, made by persons who become members of the retirement system under this section to any other pension fund, shall be paid by the city and county to the retirement system. Each member of the department shall contribute \$2 per month to the retirement system to be applied on the cost of the benefits at death and retirement provided under this section. Should a member be separated from city service through any cause other than death or retirement, then such contributions with interest shall be refunded to him under such

conditions as may be fixed by the board of supervisors for the refund of contributions of other members of the retirement system.

(e) When any member of the department shall die from natural causes and before retirement, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

- (f) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which, together with the members' contributions provided for in subdivision (d) of this section, shall be equal to the liabilities accruing under the retirement system because of the service rendered during such year by persons becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contributions by the city and county, together with the members' contributions, was not sufficient to meet such liability, then the city and county shall make such additional contributions as may be necessary to make up the deficit.
- (g) No benefits shall be provided under the retirement system for, nor shall any contribution be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section.

That portion of any pension payable because of the death or retirement of any such person which is provided by contributions of the city and county shall be reduced, in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the workers' compensation insurance and safety law of the State of California.

(h) Persons who were members of the police department on the eighth day of January, 1932, shall have the option, to be exercised in writing on or before the first day of January, 1936, of becoming members of the retirement system under the provisions of Section 8.543, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then on and after the first day of the month next following such affirmative action, referred hereinafter in this subdivision (h) as "effective date," they shall not receive any benefit or make any contribution under this section, but on and after said effective date shall be members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to said effective date, by such members' contributions made prior to such effective date, with interest, and by contributions of the city and county, which pension shall be the same percentage regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of such service, as the contributions of the member and the city and county are calculated to provide upon retirement at age 62 for each year of service rendered as a member of the retirement system.

### A8.541 SALARY BASE, FOR RETIREMENT PURPOSES, OF FORMER RANK OF CORPORAL OF POLICE

For all purposes of the retirement system, and notwithstanding any other provisions of the charter, the monthly salary attached to the former rank of corporal, heretofore held by a member of the police department, shall henceforth be deemed to be an amount equal to the maximum monthly salary attached to the rank of police officer, plus three-fourths of the difference between such amount and the monthly salary attached to the rank of sergeant.

### A8.542 POLICE DEPARTMENT—RETIRED MEMBERS AND BENEFICIARIES ON JANUARY 8, 1932

Any member of the police department who shall have been retired and shall be receiving a pension on the eighth day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension, subject to the provisions of Section 8.540 governing the payment of pensions. Such pension shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children or parents, except that upon the death of any such member who is receiving a pension under this section and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which shall be determined in the manner prescribed by the board of supervisors.

### A8.543 MEMBERS OF THE POLICE DEPARTMENT—JANUARY 8, 1932 TO JULY 1, 1945

Persons who become members of the police department after the eighth day of January, 1932, and prior to July 1, 1945, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.501, 8.502, 8.510, 8.511, 8.520, and 8.525 and 8.560 of this charter: No such member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of 62 years, and completed 25 years of continuous service, except that retirement shall be compulsory at the age of 70 years. It may be provided, however, under such retirement system, that members may retire after 30 years of continuous service, the benefits of retirement in such cases to be determined, because of retirement at an age below 62, in accordance with the tables recommended by the actuary and approval by said retirement board.

### A8.544 MEMBERS OF THE POLICE DEPARTMENT AFTER JULY 1, 1945

Members of the police department, as defined in Section 8.545, who are members of the retirement system under Sections 8.507, 8.540 or 8.543 of the charter on the first day of July, 1945, and persons who become members of said department after said date, shall be members of the retirement system under this Section 8.544 on and after said date, and shall be subject to the following provisions of Section

8.544 and Sections 8.545, 8.546, 8.547, 8.548, 8.549, 8.551, 8.552, 8.553, 8.554, 8.555, 8.556, 8.557, 8.558, and 8.559 (which shall apply only to members under Section 8.544 unless otherwise indicated) in addition to the provisions contained in Sections 3.670, 3.671, 8.500, 8.510, and 8.520 of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under Section 8.540 of the Charter on July 1. 1949, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than 90 days after July 1, 1949, of being members of the system under Section 8.540 instead of Section 8.544, the election under said option to be effective on said date. In like manner, members of the said department who are members of the retirement system under Section 8.507 or 8.543 of the charter shall have the option, to be exercised in writing on a form furnished by the retirement system, and to be filed at the office of said system not later than 90 days after July 1, 1949, of being members of the system under Sections 8.507 or 8.543, respectively, instead of Section 8.544 the election to be effective on said date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 8.520 of the charter, on the effective date of the amendment shall have the same option of electing to be members under Sections 8.507, 8.540, or 8.543, as the case may be, instead of Section 8.544, until 90 days after return to service in the police department.

On and after July 1, 1949, the persons who affirmatively exercise said option, shall continue to be members of the system under Sections 8.507, 8.540, or 8.543, respectively, and shall not be subject to any of the provisions of Section 8.544.

### A8.545 DEFINITIONS

The following words and phrases as used in this section, unless a different meaning is plainly required by the context shall have the following meanings:

"Retirement allowance," "death allowance," or "allowance" shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the police department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be,

at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

The amendment of the definition of "final compensation" contained in the proposition therefor submitted to the electorate on June 6, 1972, shall be retroactive and shall be applicable to any death allowance first effective on or after July 1, 1971. Said amendment does not and shall not increase any death allowance first in effect prior to July 1, 1971, nor shall said amendment give any person receiving a death allowance, or his successors in interest any claim against the city and county for any increase in any death allowance paid or payable for time prior to July 1, 1971.

For the purpose of the retirement system and of this section, the terms "member of the police department," "member of the department" or "member" shall mean any officer or employee of the police department whose employment therein began prior to January 1, 1900, or whose employment therein began or shall begin after that date, and was or shall be subject to the charter provisions governing entrance requirements for members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1945, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron. Any police service performed by such member of the police department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.600 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

### A8.546 SERVICE RETIREMENT

Any member of the police department who completes at least 25 years of service in the aggregate and attains the age of 50 years, said service to be computed under Section 8.554, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of 65 years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to 55 percent of the final compensation of said member, as defined in Section 8.545, plus and allowance at the rate of three percent of said final compensation, for each year of service rendered in excess of 25 years; provided, however, that such retirement allowance shall not exceed 70 percent of said member's final compensation. A member retired after attaining the age of 65 years, but before completing 25 years of service in the aggregate computed under Section 8.554, shall receive a retirement allowance which bears the same ratio to 50 percent of the final compensation of said member, as defined in Section 8.545 as the service with which he is entitled to be credited, bears to 25 years. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not to be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section 8.547, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

### A8.547 RETIREMENT FOR INCAPACITY

Any member of the police department who becomes incapacitated for the performance of his duty by reason of bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.545, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.545. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation as defined in Section 8.545 he would

have received immediately prior to said date had he lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If at the time of retirement because of disability, he is qualified as to age and service for retirement under Section 8.546, he shall receive an allowance equal to the retirement allowance which he would receive if retired under Section 8.546 but not less than 55 percent of said final compensation. Any member of the police department who becomes incapacitated for the performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.554 shall be retired upon an allowance of one and one-half percent of the final compensation of said member, as defined in Section 8.545, for each year of service provided that said allowance shall not be less than 33-1/3 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section 8.554, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under Section 8.546 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member of his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

#### A8.548 DEATH ALLOWANCE

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife, throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation. If he had retired prior to death for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under Section 8.544 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be

reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents depending upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

#### A8.549 PAYMENT OF SURVIVING DEPENDENTS

Upon the death of a member of the police department resulting from any cause, other than injury received in or illness caused by performance of duty:

- (a) if his death occurred after qualification for service retirement under Sections 8.540, 8.543 or 8.546, or after retirement for service or because of disability which resulted from any cause other than any injury received in, or illness caused by the performance of duty, three-fourths of his retirement allowance to which he would have been entitled if he had retired for service at the time of his death or three-fourths of his retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife; or
- (b) if his death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of age 50 years, three-fourths of the retirement allowance to which he would have been entitled under section 8.546 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife; or
- (c) if his death occurred after retirement because of disability which resulted from injury received in, or illness caused by the performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or
- (d) if his death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.554, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.547 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age,

collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parent dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or the onset of the illness which results in death, if he had not retired, or unless she was married to the member at least one year prior his death.

As used in this section and Section 8.548, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.552 in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. Persons heretofore or hereafter retired under other charter sections as members of the police department at the time of retirement, shall be subject to the provisions of this section. With respect to members under Section 8.544, "qualified for service retirement," "qualification for service retirement," or "qualified as to age and service retirement," as used in this section and other sections to which persons who are members under Section 8.544 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.554.

The amendments of this Section 8.549 contained in the proposition herefor submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who died after October 1, 1970.

#### A8.550 ADJUSTMENT OF ALLOWANCES

(a) Every allowance based on the average monthly compensation earnable by the member during the three or 10 years prior to retirement or death, and payable for time commencing on April 1, 1952, to or on account of persons who were retired or who died prior to January 1, 1951, as members of the police department, shall be adjusted to the amount it would be if it had been based on the monthly compensation fixed in Section 35.5 of the charter of 1932 as amended as of July 1, 1951, for the rank of police officer in the respective years of service, regardless of the rank or position the member held in the department prior to his retirement, or death before retirement. Every service retirement allowance under Section 8.543 which is included in the sentence next preceding, shall be adjusted to what it would have been, if prior to optional modification, the allowance had been 50 percent of said monthly compensation. Allowances payable under Sections 8.547, 8.548 or 8.561 to or on account of persons who were retired for disability or died prior to January 1, 1951, on and after

the date such persons would have qualified for service retirement, shall be calculated as provided in said Sections 8.547, 8.548, or 8.561, respectively. The provisions of Section 8.549 with respect to continuance of one-half of retirement allowance upon deaths after retirement, shall be applied from April 1, 1952, as if they were effective on November 2, 1948. This section does not authorize any decrease in any allowance from the amount being paid as of April 1, 1952, nor does this section give any retired member, or any beneficiary of such member, or his successors in interest, any claim against the city and county for any increase in any allowance paid or payable for the time prior to April 1, 1952. Adjustment in reserves under allowances which are changed according to this section, shall be made on the basis of current interest rate and mortality tables.

The increase in the retirement allowance shall be apportioned according to services rendered by the member in the same manner that the allowance prior to increase was apportioned. Contributions to the retirement system, necessary for the payment of the increase of the portion of the retirement allowances which is paid from reserves held by the retirement system, shall be provided from the reserves held by the retirement system on account of members under Section 8.544, the necessary amount being transferred upon April 1, 1952, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently, as a percentage of salaries of persons who are members under Section 8.544, shall be increased to a percentage determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to current and prior service portions of the allowances which are not paid from reserves held by the retirement system, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

(b) Every retirement or death allowance payable for time commencing on April 1, 1956, to or on account of any person who died or was retired prior to November 8, 1955, as a member of the police department, unless such person was retired or died as a member of the retirement system or the former police relief and pension fund, under any section of the charter, other than Section 8.543, or 8.544, is hereby increased by the amount of \$25 per month; provided, however, that such increased retirement allowance or death allowance shall not exceed 50 percent of the compensation as of July 1, 1954, attached to the rank of police officer in the fourth year of service as set forth under Section 35.5 of the charter of 1932, as amended regardless of the rank or position the member held in the department prior to his retirement or death before retirement.

Such increase shall not be modified under, nor subject to, Option 2 or 3 provided by ordinance. Allowances payable under Sections 8.547, 8.548, or 8.561, to or on account of persons who were retired for disability or died prior to November 8, 1955, on and after the date such persons would have qualified for service retirement, shall be calculated as provided in said Sections 8.547, 8.548, or 8.561, respectively.

This section does not authorize any decrease in any allowance from the amount being paid as of April 1, 1965, nor does this section give any member who retired, or the beneficiary of any member who died prior to April 1, 1956, or his successors

in interest, any claim against the city and county for any increase in retirement allowance paid or payable for time prior to April 1, 1956.

The increase in allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system under Section 8.543 or 8.544, and service rendered as such a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the increases in the allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members under Section 8.543 or 8.544 from the reserves held by the retirement system on account of members of the retirement system under Section 8.544, the necessary amount being transferred upon April 1, 1956, from said reserves to the reserves held by the retirement system to meet the obligations on account of allowances which are increased by this Subsection 8.550(b). The contribution being required of the city and county currently, as percentages of salaries of persons who are members under Section 8.543 or 8.544, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

# A8.551 ADJUSTMENT OF ALLOWANCES BECAUSE OF COMPENSATION BENEFITS

That portion of any allowance payable because of the death or retirement of any member of the police department, which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits, other than medical benefits, payable to or on account of such person, under the Workers' Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of any benefits, other than medical benefits, payable to or on account of such persons under the said law of the State of California, and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### A8.552 DEATH BENEFITS

If a member of the police department shall die, before retirement, from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Sections 8.548 or 8.549 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members.

#### A8.553 REFUNDS AND REDEPOSITS

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the police department, he shall redeposit in the retirement fund the amount refunded to him. Contributions with interest, which are credited because of service rendered in any other office or department and which will not be counted under Section 8.554 to any person who becomes a member of the retirement system under Section 8.544, shall be refunded to him forthwith. Should a member of the police department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be, to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the police department, and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

#### A8.554 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement, and calculating benefits, excluding, however, any time the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.
- (b) Time during which said member served and received compensation as a jail matron in the office of the sheriff.
- (c) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments before July 1, 1949, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.547 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after June 30, 1949, and receives compensation because of services rendered in other offices and departments.
- (d) Time during which said member is absent from a status included in paragraphs (a), (b), or (c) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account

#### A8.555 SOURCES OF FUNDS

All payments provided for persons who are members under Section 8.544 shall be made from funds derived from the following sources, plus interest earned on said funds:

- (a) The normal rate of contribution of each member shall be based on his age taken to the next lower complete quarter year, (1) at the date he became a member under Section 8.507 or 8.543, in the case of persons who are members under these sections, or (2) at July 1, 1945, in the case of persons who are members under Section 8.540, and his age taken to the next lower completed quarter year, when he entered the police department, or (3) on his age at the date he becomes a member under Section 8.544, in the case of persons who become members on or after July 1, 1945, without credit for services counted under Section 8.554. The age of entrance into the police department shall be determined by deducting the member's service credited under Section 8.554 as rendered prior to the date upon which his age is based for determination of the rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under Section 8.544, shall be such as, on the average for such member, will provide, assuming service without interruption, under Section 8.546, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, without discount of allowance, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed six percent.
- (b) The dependent rate of contribution of each member which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section 8.546, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under Section 8.549, after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement from disability resulting from other causes regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between six percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.
- (c) There shall be deducted from each payment of compensation made to a member under Section 8.544, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is

prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said members or shall be paid to said member or his estate or beneficiary as provided in Sections 8.552, 8.553, and 8.554.

- (d) Contributions based on time included in Subsections (a), (b), (c), and (d) of Section 8.554 and deducted prior to July 1, 1945, from compensation of persons who become members under Section 8.544, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.
- (e) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under Section 8.544, shall be applied to provide the benefits under said section.
- (f) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section 8.555, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (a), Section 8.555 shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under Section 8.544, said percentage to be the ratio of the value on July 1, 1945, or at the late date of a periodical actuarial valuation and investigation into the experience under the system of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.
- (g) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the

obligation of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1945, and which are represented on July 1, 1945, in the accounts of said system by debits against the city and county.

#### A8.556 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.546 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.546, and nothing shall deprive said member of said right.

#### A8.557 LIMITATION ON EMPLOYMENT DURING RETIREMENT

No person retired as a member under Section 8.544 after June 30, 1945, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

# A8.558 DEFINITION OF "FINAL COMPENSATION"— ALLOWANCES FIRST PAYABLE PRIOR TO JULY 1, 1975

Notwithstanding any other provision of this charter, but solely with respect to the determination of the amount of each retirement allowance payable to or on account of a person who retired for service or because of disability under the provisions of Section 8.544 of the charter prior to July 1, 1975, "final compensation," for time commencing on July 1, 1975, shall mean the rate of remuneration (excluding remuneration for overtime) attached on July 1, 1975, to the rank or position upon which such person's retirement allowance was determined when first effective; provided, further, that each such allowance shall be increased or decreased as of—July 1, 1990, and thereafter on the effective date of any legislation fixing the rates of compensation for police officers under section 8.405 of this charter by an amount equal to 50 percent of the rate of change in the salary attached to said rank multiplied by the allowance which was payable for the month immediately preceding each July 1.

This section does not give any person retired under the provisions of said Section 8.544, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1975.

This section does not authorize any decrease in the amount of any allowance from the amount being paid as of June 30, 1975.

No retirement allowance to which the definition of "final compensation" as set forth in this section is applicable shall be subject to adjustment under the provisions of Section 8.526 for time commencing July 1, 1975. Contributions, with interest credited thereon, standing to the credit of a person whose retirement allowance is subject to the provisions of this section and which were made by such person pursuant to the provisions of Section 8.526 shall, effective July 1, 1975, be combined with any administered in the same manner as such person's normal contributions. Contributions, with interest credited thereon, made by or charged against the city and county and standing to its credit on account of a person whose retirement allowance is subject

to the provisions of this section and which were made by or charged against the city and county for the purposes of said Section 8.526 shall be applied to provide the benefits under this section.

# A8.559 MEMBERS OF THE POLICE DEPARTMENT ON AND AFTER JULY 1, 1975

Notwithstanding the provisions of Section 8.544 of this charter, members of the police department, as defined in Section 8.559-1, who are members of the retirement system under Section 8.554 on the effective date of this section and persons who become members of the retirement system under Section 8.544 after said effective date and prior to July 1, 1975, shall have the option, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than June 30, 1975, of being members of the system under this section instead of said Section 8.544, the election pursuant to said option to be effective as of July 1, 1975; provided that such of said members who, during the period from the effective date of this section through June 30, 1975, are absent by reason of service in the armed forces of the United States or by reason of any other service included in Section 8.520(a) of this charter shall have the same option of electing to be members under this section instead of Section 8.544, until 90 days after their return to service in the police department.

Those persons who become members of the police department, as defined in Section 8.559-1, on or after July 1, 1975, and those persons who elect to be members under this section as provided in the preceding paragraph, shall be members of the system subject to provisions of Sections 8.559, 8.559-1, 8.559-2, 8.559-3, 8.559-4, 8.559-5, 8.559-6, 8.559-7, 8.559-8, 8.559-9, 8.559-10, 8.559-11, 8.559-12 and 8.559-13 (which shall apply only to members under Section 8.559) in addition to the provisions contained in Sections 3.670 to 3.672, both inclusive, and Sections 8.500, 8.510 and 8.520 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Section 8.544 of this charter.

#### A8.559-1 DEFINITIONS

The following words and phrases as used in this section, Section 8.559 and Sections 8.559-2 through 8.559-13, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

For retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

CH-197 (3-99)

- (a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,
- (b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his or her retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he or she held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his or her duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections 8.559 through 8.559-13, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department, excluding such officers and employees as are members of the retirement system under Section 8.565 or Section 8.568 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons

(3-99) CH-198

employed on July 1, 1975, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron.

Any police service performed by such members of the police department outside the limits of the city and county and under orders of a superior officer or any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1998)

CH-198.1 (3-99)

### A8.559-2 SERVICE RETIREMENT

Any member of the police department who completes at least twenty-five (25) service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.559-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to fifty-five (55) percent of the final compensation of said member, as defined in Section 8.559-1, plus an allowance at the rate of four percent of said final compensation for each year of service rendered in excess of twenty-five (25) years; provided, however, that such retirement allowance shall not exceed seventy-five (75) percent of said member's final compensation. A member retired after attaining the age of sixty-five (65) years, but before completing twenty-five (25) years of service in the aggregate computed under Section 8.559-10. shall receive a retirement allowance which bears the same ratio to fifty (50) percent of the final compensation of said member, as defined in Section 8.559-1, as the service with which he or she is entitled to be credited bears to twenty-five (25) years. If, at the date of retirement for service, or retirement for disability, resulting from an injury received in the performance of duty, said member has no spouse, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section or Section 8.559-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his or her allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

#### A8.559-3 RETIREMENT FOR INCAPACITY

Any member of the police department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.559-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.559-1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.559-1, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation.

If, at the time of retirement because of disability, he is qualified as to age and service for retirement under Section 8.559-2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under Section 8.559-2. but not less than 55 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.559-10, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in Section 8.559-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section 8.559-10, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under Section 8.559-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

#### A8.559-4 DEATH ALLOWANCE

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member

under Section 5.559 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

### A8.559-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the police department resulting from any cause, other than an injury received in, or illness caused by performance of duty;

(a) if his death occurred after qualification for service retirement, under Section 8.559-2, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until marriage to his surviving wife; or

(b) if his death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he would have been entitled under Section 8.559-2 if he had attained the age of 50 years on the date of his death shall be continued

throughout life or until remarriage to his surviving wife; or

(c) if his death occurred after retirement for disability by reason of injury received in, or illness caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or

(d) if his death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.559-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.559-3 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in, or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member

attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and Section 8.559-4, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.559-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.559 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.559-10.

#### A8.559-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section 8.559 shall be increased or decreased as of July 1, 1990, and thereafter on the effective date of any legislation fixing the rates of compensation for police officers under section 8.405 of this charter by an amount equal to 50 percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank or position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his beneficiary on June 30, 1976, or on the date such member or beneficiary began to receive the allowance, whichever is later.

### A8.559-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other

general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### A8.559-8 DEATH BENEFIT

If a member of the police department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section 8.559-4 or 8.559-5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

### A8.559-9 REFUNDS AND REDEPOSITS

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund, the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change, equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues.

#### A8.559-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon reentry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.
- (b) Time during which said member served and received compensation as a jail matron in the office of the sheriff.

- (c) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under Section 8.559-3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.
- (d) Time during which said member is absent from a status included in Subsections (a), (b), or (c) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

#### A8.559-11 SOURCES OF FUNDS

All payments provided for members under Section 8.559 shall be made from funds derived from the following sources, plus interest earned on said funds;

- (a) The normal rate of contribution for each member under Section 8.559 shall be based on his age taken to the next lower complete quarter year, (1) at the date he became a member under Section 8.544, in the case of persons who are members under that section, or (2) on his age at the date he becomes a member under Section 8.559 in the case of persons who become members on or after July 1, 1973, without credit for service counted under Section 8.559-10. The age of entrance into the police department shall be determined by deducting the member's service credited under Section 8.559-10 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under Section 8.559, shall be such as, on the average for such member, will provide, assuming service without interruption, under Section 8.559-2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed seven percent.
- (b) The dependent contributions of each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section 8.559-2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under Section 8.559-5 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury

received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

- (c) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other member of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.559-8, 8.559-9 and 8.559-10.
- (d) Contributions based on time included in Subsections (a), (b) and (c) of Section 8.559-10, and deducted prior to July 1, 1975, from compensation of persons who become members under Section 8.559, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, together with contributions made by such members pursuant to the provisions of Section 8.526 and standing with interest thereon to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.
- (e) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under Section 8.559, shall be applied to provide the benefits under said Section 8.559.
- (f) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section 8.559-11 to provide the benefits payable to members under Section 8.559. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in Subsection (a) of this Section 8.559-11, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under Section 8.559, said percentage to be the ratio of the value on July 1, 1975, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city

and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be every odd-numbered year.

(g) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1975, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

### A8.559-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.559-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.559-2, and nothing shall deprive said member of said right.

#### A8.559-13 LIMITATION IN EMPLOYMENT DURING RETIREMENT

Except as otherwise provided in section 8.511 of this charter, no person retired as a member under Section 8.559 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section.

#### A8.559-14 RIGHT TO TRANSFER

Notwithstanding any provisions of this charter to the contrary, any person who, on or after January 1, 1981, is a member of the Police Department, and is a member of the Retirement System under Charter Section 8.559, may become a member of the Retirement System under Charter Section 8.586 by filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.559. This waiver must be without right of revocation and on a form furnished by the retirement system. The Retirement

Board may require that this waiver be executed by additional persons before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.586 shall receive service credit under Charter Section 8.586 equal to their service credit under Charter Section 8.559 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.586 shall not be subject to any of those provisions of Charter Section 8.559 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year for those persons electing this transfer to Charter Section 8.586 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.559 to Charter Section 8.586 shall receive a monetary consideration not to exceed \$40,000 calculated at the rate of \$2,500 for each year of said service credit up to ten years and then at the rate of \$1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the city and county contributions held by the retirement system.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other charter or ordinance provisions, no change in the provisions of Charter Section 8.586 and those provisions incorporated therein by reference shall apply to those persons transferring pursuant to this section unless separately approved by the electorate in a separate charter amendment.

Notwithstanding any other charter or ordinance provisions except proposed Charter Section 8.586-15 as proposed to the electorate for the election of November 4, 1980, that portion of any benefits pursuant to this section, payable because of an increase in benefits under Charter Section 8.586 subsequent to July 1, 1980, shall be reduced dollar for dollar when payable not to exceed the amount of monetary consideration plus interest said member received for making this transfer.

### A8.559-15 VESTING

Should any member of the police department who is a member of the Retirement System under charter section 8.559, with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the police department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all right to any benefits under this section except refund of his or her accumulated contributions.

Every retirement or death allowance payable to or on account of any member under Section 8.559-15 shall be adjusted in accordance with the provisions of Section 8.559-6 provided that if the member's accrued service credit is less than 25 years the section 8.559-6 adjustment will be multiplied by a fraction where the denominator is 25 and the numerator is equal to the member's accrued service credit at the date of termination.

# A8.560 DEFINITION, MEMBERS OF FIRE AND POLICE DEPARTMENT

For the purpose of the retirement system, any officer or employee of the police or the fire departments whose employment therein began prior to January 1, 1900, or whose employment therein began on or shall begin after that date and was or shall be subject to a charter maximum age at the time of employment of not over 35 years, shall be considered to be a member of the police department or the fire department, respectively. Any fire or police service outside the limits of the city and county performed by a member of the retirement system and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

# A8.561 PENSION PROVISIONS—DEPENDENT OF MEMBERS OF FIRE AND POLICE DEPARTMENTS KILLED IN LINE OF DUTY

If a member of the fire or police departments, as defined in the charter for the purposes of the retirement system, or a member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilots of fireboats, marine engineer of fireboats, or marine fireman of fireboats, all of whom are hereinafter designated as members, shall die before or after retirement as a result of an injury received in, or illness caused by the performance of his duty, a monthly allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death, and if he had retired prior to death, the allowance payable shall be equal to the retirement allowance of the member. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If there be no surviving wife entitled to an

allowance hereunder, of if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this subsection to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which result in death.

Benefits provided under this section shall be in lieu of all benefits payable under other sections of the charter upon death of such member resulting from an injury received in, or illness caused by the performance of duty, except the five hundred dollar benefit payable upon death after retirement.

Contributions to provide the allowance under this section shall be made to the San Francisco City and County Employees' Retirement System by the city and county. The amount of the contribution shall be determined and payment to the system shall be made in the same manner as contributions are determined and paid which are required for other benefits provided under the retirement system for the respective groups of members who are included under this section.

Notwithstanding any other provision of this charter, any member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fire boats, marine engineer of fire boats, or marine fireman of fire boats, who becomes incapacitated for performance of his duty by reason of any bodily injury received in, or illness caused by, the performance of his duty, shall receive the same benefits as members of the fire department who are members of the retirement system under Section 8.567 of the charter.

#### A8.562 CREDIT FOR SERVICE IN UNDERWRITERS' FIRE PATROL

Any person who is a member under Section 8.568 on February 1, 1970, and who was employed in the uniformed force of the Underwriters' Fire Patrol of San Francisco prior to becoming such a member shall have the right to elect to make contributions pursuant to this section and to receive credit as service under the retirement system for all or any part of the time he was so employed.

Said election shall be made in writing on a form provided by the retirement system and filed with the retirement board within 90 days after February 1, 1970.

Any such member who elects to make contributions and receive such credit shall contribute to the retirement fund an amount equal to the sum of:

- (a) contributions computed by applying the rate of contribution applicable to him on the date he elected to receive credit for such service to the monthly compensation earnable by him on said date multiplied by the number of months of such service for which he has elected to receive credit; and
- (b) interest on the unpaid balance of said contributions, commencing on the date of the member's election to make such contributions, at the rate of interest currently being used from time to time under the retirement system.

Payment of the contributions required by this section shall be made in a lump sum or by installment payments. Installment payments shall be made at times and in a manner fixed by the retirement board, provided that the period for completion of such payments shall not extend beyond the effective date of the member's retirement.

Upon completion of payment of contributions in the amount specified in this section, the member shall be credited with service under the retirement system in an amount equal to the service for which he has elected to receive credit pursuant to this section. The service with which the member is so credited shall be credited as current service.

### A8.565 MEMBERS OF FIRE DEPARTMENT ON JANUARY 8, 1932

Persons who are members of the fire department on the eighth day of January, 1932, shall become members of the retirement system on the date, subject only to the following provisions, in addition to the provisions contained in Sections 3.670—3.672, 8.500—8.502, 8.510, 8.511, 8.520, and 8.560 of this charter.

(a) Any member of the fire department who shall have completed 25 years of continuous service as a member of the fire department next preceding the date of his retirement, or any member of the fire department who shall have reached the age of 55 years and shall have completed 20 years of continuous service as a member of the fire department next preceding the date of his retirement, may retire from service at his option. Any member of the fire department who shall become physically disabled by reason of any bodily injury received in the performance of his duty may be retired from service on satisfactory proof thereof. The retirement board, by unanimous vote, may retire from service any aged, disabled or infirm member of the fire department who has arrived at the age of 60 years and who has completed 20 years of continuous service as a member of the department next preceding such age, who may be ascertained to be, by reason of such age, infirmity or other disability, unfit for the performance of his duties.

Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half the amount of the salary attached to the rank held by him three years prior to the date of his retirement hereinafter referred to as "pension" in this and the following section; provided that where such retirement is based on disability alone, in case the disability of such member shall cease, his pension shall cease, and he shall be restored to service in the rank he occupied at the time of his retirement. Should any said retired member die leaving a widow, who shall have been married to the decedent at least one year prior to the date of his retirement, such widow shall, as long as she may live and remain unmarried, be paid said pension; provided, further, that the widow of any said retired member who married said member after the effective date of his retirement and at least one year prior to his death shall be paid pension for time after December 31, 1974, as long as she may live and remain unmarried; provided, further, that should widow die leaving a child or children under the age of 16 years, said pension shall continue to be paid such children collectively until the youngest child arrives at the age of 16 years; and provided further, that should said retired member die leaving no widow but leaving an orphan child or children under the age of 16 years, such child or children collectively shall receive said pension until the youngest child attains the age of 16 years.

(b) The family of any member of the fire department who shall die as a result of any injury received during the performance of his duty, or from sickness clearly,

unmistakably and directly caused by and resulting from the discharge of such duty, or while eligible for a pension on account of years of service in the department, or who has served 20 consecutive years in the department and attained the age of 55 years, shall receive the following benefits.

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, his widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury; provided that the widow of any said retired member who married said member after the effective date of his retirement and at least one year prior to his death shall be paid pension for time after December 31, 1974, as long as she may live and remain unmarried; provided, however, that should said widow die, leaving a child or children under the age of 16 years, said pension shall continue to such child or children collectively until the youngest child arrives at the age of 16 years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of 16 years, such child or such children collectively shall receive said pension until the youngest child attains the age of 16 years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents dependent solely upon him for support, such parents so depending shall collectively receive said pension during such time as the retirement board may unanimously determine its necessity.

(c) When any member of the department shall die from natural causes and before retirement, and when no pension is payable to his widow or children, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

- (d) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which shall be equal to the liabilities accruing under the retirement system because of service rendered during such year by persons becoming members on the eighth day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county was not sufficient to meet such liability, then the city and county shall make such additional contribution as may be necessary to make up the deficit.
- (e) No benefits shall be provided under the retirement system for, nor shall any contributions be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section. Any pension payable because of the death or retirement of any such person shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the Workers' Compensation Insurance and Safety Law of the State of California.

(f) Persons who are members of the fire department on the eighth day of January, 1932, shall have the option, to be exercised in writing on or before the first day of July, 1932, of becoming members of the retirement system under the provisions of Section 8.567, which applies to persons who become members of the department after the eighth day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then they shall not receive any benefit under this section, but shall become members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the eighth day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to the eighth day of January, 1932, by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement of his final compensation, as defined by the board of supervisors, for each year of service, as the contributions of the member and the city and county are calculated to provide upon retirement at age 55 for each year of service rendered as a member of the retirement system.

The amendments of Subsections (a), and (b), of this section contained in the proposition therefor submitted to the electorate on November 5, 1974, do not and shall not give any person any claim against the city and county for any pension for time prior to January 1, 1975.

# A8.566 FIRE DEPARTMENT—RETIRED MEMBERS AND BENEFICIARIES ON JANUARY 8, 1932

Any member of the fire department who shall have been retired on or after January 21, 1925, or prior to January 1, 1900, and shall be receiving a pension on the eighth day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the eighth day of January, 1932, shall continue to receive such pension subject to the provisions of Section 8.565 governing the payment of pensions to retired members, widows, children and parents. Any member of the fire department who shall have been retired on or after the first day of January, 1900, and prior to the 21st day of January, 1925, and shall be receiving a pension on the eighth day of January, 1932, shall continue to receive such pension throughout his life, subject to the provisions of Section 8.565 governing the payment of pensions granted because of disability incurred in the performance of duty, including the payment of such pension to widows, children and parents of deceased members who had been retired because of such disability. Such pensions shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children or parents; except that upon the death of any such member who is receiving a pension under this section and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which shall be determined in the manner prescribed by the board of supervisors.

# A8.567 MEMBERS OF THE FIRE DEPARTMENT—JANUARY 8, 1932 TO JULY 1, 1949

Persons who become members of the fire department after the eighth day of

January, 1932 and prior to July 1, 1949, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in Sections 3.670—3.672, 8.500—8.502, 8.510, 8.511, 8.520, 8.525 and 8.560 of this charter. No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of 55 years and completed 20 years of continuous service, except that retirement shall be compulsory at the age of 70 years. It may be provided, however, under such retirement system, that members may retire after 30 years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below 55, in accordance with the tables recommended by the actuary and approved by said retirement board.

# A8.568 MEMBER OF THE FIRE DEPARTMENT AFTER JULY 1, 1949

Members of the fire department, as defined in Section 8.569, who are members of the retirement system under Sections 8.507, 8.509, or 8.567 of the charter on the first day of July, 1949, and persons who become members of said department after said date, shall be members of the retirement system under this Section 8.568 on and after said date, and shall be subject to the following provisions of Section 8.568 and Sections 8.569, 8.570, 8.571, 8.572, 8.573, 8.575, 8.576, 8.577, 8.578, 8.579, 8.580, 8.581 in addition to the provisions contained in Sections 3.670—3.672, 8.500—8.504, 8.506, 8.510 and 8.520 of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under Sections 8.507 or 8.509 of the charter, on July 1, 1950, however, shall have the option to be exercised in writing, on a form furnished by the retirement system and to be filed at the office of said system not later than 90 days after said date, of being members of the system under Sections 8.507 or 8.509 instead of Section 8.568, the election under said option to be effective on said date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in Section 8.520 of the charter, on July 1, 1949, shall have the same option of electing to be members under Sections 8.507 or 8.509, as the case may be, instead of Section 8.568 until 90 days after their return to service in the fire department. On and after said date the persons who affirmatively exercise said option, shall continue to be members of the system under Section 8.507 or 8.509, respectively, and shall not be subject to any of the provisions of Section 8.568.

#### A8.569 DEFINITIONS

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from

duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

The amendment of the definition of "final compensation" contained in the proposition therefor submitted to the electorate on June 6, 1972, shall be retroactive and shall be applicable to any death allowance first effective on or after July 1, 1971. Said amendment does not and shall not increase any death allowance first in effect prior to July 1, 1971, nor shall said amendment give any person receiving a death allowance, or his successors in interest any claim against the city and county for any increase in any death allowance paid or payable for time prior to July 1, 1971.

For the purpose of the retirement system and of this section, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under Section 8.565 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1949, or employed thereafter, regardless of age, to perform the duties performed under the titles of pilot of fireboats or marine engineer of fireboats, or employed after July 1, 1949, at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed by members of the salvage corps in the fire department, or duties now performed under the title of hydrant-gateman. Any fire service performed by such member of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and

county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County

Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

#### A8.570 SERVICE RETIREMENT

Any member of the fire department who completes at least 25 years of service in the aggregate and attains the age of 50 years, said service to be computed under Section 8.578, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of 65 years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to 55 percent of the final compensation of said member, as defined in Section 8.569, plus an allowance at the rate of three percent of said final compensation, for each year of service rendered in excess of 25 years; provided, however, that such retirement allowance shall not exceed 70 percent of said member's final compensation. A member retired after attaining the age of 65 years, but before completing 25 years of service in the aggregate computed under Section 8.578, shall receive a retirement allowance which bears the same ratio to 50 percent of the final compensation of said member, as defined in Section 8.569, as the service with which he is entitled to be credited, bears to 25 years. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section 8.571, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

#### A8.571 RETIREMENT FOR INCAPACITY

Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.569, as his percentage of disability is determined to be. The percentage of disability shall

be as determined by the Workers' Compensation Appeal Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.569. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.569, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation.

If at the time of retirement because of disability, he is qualified as to age and service for retirement under Section 8.570, he shall receive an allowance equal to the retirement allowance which he would receive if retired under Section 8.570, but not less than 55 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.578, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in Section 8.569 for each year of service, provided that said allowance shall not be less than 33% percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section 8.578, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under Section 8.570 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

The amendments of this Section 8.571 contained in the proposition therefor submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who retired after October 1, 1970.

#### A8.572 DEATH ALLOWANCE

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such

allowances shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member except that if he was a member under Section 8.568 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependents upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

#### A8.573 PAYMENTS TO SURVIVING DEPENDENTS

Upon the death of a member of the fire department resulting from any cause, other than an injury received in or illness caused by performance of duty:

- (a) if his death occurred after qualification for service retirement, under Section 8.570, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife; or
- (b) if his death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he would have been entitled under Section 8.570 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife; or
- (c) if his death occurred after retirement for disability by reason of injury received in, or illness caused by performance of duty, his retirement allowance as it

was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or

(d) if his death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.578, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.571 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in, or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and in Section 8.572, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.576, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. Persons heretofore retired under charter Section 8.567, as members of the fire department at the time of retirement, shall be subject to the provisions of this section. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.568 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.578.

The amendments of this Section 8.573 contained in the proposition therefor submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who died after October 1, 1970.

#### A8.574 ADJUSTMENT OF ALLOWANCES

Every allowance based on the average monthly compensation earnable by the member during the 10 years prior to retirement, and payable for time commencing on February 1, 1957, to or on account of persons who were retired, as members under Section 8.567, for disability resulting from bodily injury received in the performance of duty, shall be adjusted to the amount it would be, if it had been based on the monthly compensation fixed by the board of supervisors as of July 1, 1956, for the rank or position held by such retired member in the fire department prior to retirement. This section does not authorize any decrease in any allowance from the amount being paid as of February 1, 1957, nor does this section give any retired member, or any beneficiary of such member, or his successors in interest, any claim against the city and county for any increase in any allowance paid or payable for the time prior to February 1, 1957. Adjustment in reserves under allowances which are changed according to this section, shall be made on the basis of current interest rate and mortality tables.

The increase in the retirement allowance shall be apportioned according to service rendered by the member in the same manner that the allowance prior to increase was apportioned. Contributions to the retirement system, necessary for the payment of the increase of the portion of the retirement allowances which is paid from reserves held by the retirement system, shall be provided from the reserves held by the retirement system on account of members under Section 8.568, the necessary amount being transferred upon February 1, 1957, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently, as a percentage of salaries of persons who are members under Section 8.568, shall be increased to a percentage determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to current and prior service portions of the allowance which are not paid from reserves held by the retirement system, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

## A8.575 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable to or on account of such person, under the Workers' Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under said law of the State of California and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### A8.576 DEATH BENEFIT

If a member of the fire department shall die, before retirement, from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section 8.572 or 8.573 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

#### A8.577 REFUNDS AND REDEPOSITS

Should any member of the fire department cease to be employed as such member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under Section 8.578, to any person who becomes a member of the retirement system under this sections, shall be refunded to him forthwith. Should a member of the fire department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payment, to or from him as the case may be to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the fire department and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

#### A8.578 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement, and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.
- (b) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board and solely for purpose of determining qualification for retirement under Section 8.571 for

disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member is absent from a status included in Subsections (a) and (b) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

#### A8.579 SOURCES OF FUNDS

All payments provided for members under Section 8.568 shall be made from funds derived from the following sources, plus interest earned on said funds:

- (a) The normal rate of contribution of each member under this section shall be based on his age taken to the next lower complete quarter year, (1) at the earlier of the dates he became a member under Section 8.507, 8.509 or 8.567, in the case of persons who are members under these sections, or (2) on his age at the date he becomes a member under Section 8.568 in the case of persons who become members on or after July 1, 1949, without credit for service counted under Section 8.578. The age of entrance into the fire department shall be determined by deducting the member's service credited under Section 8.578 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under Section 8.568, shall be such as, on the average for such member, will provide, assuming service without interruption, under Section 8.570, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed six percent.
- (b) The dependent contributions of each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section 8.570, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under Section 8.573 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between six percent and the member's normal rate of contributions, and said dependent rate

may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

- (c) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.576, 8.577 and 8.578.
- (d) Contributions based on time included in Subsections (a), (b) and (c) of Section 8.578, and deducted prior to July 1, 1949, from compensation of persons who become members under Section 8.568, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.
- (e) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under Section 8.568, shall be applied to provide the benefits under said section.
- (f) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section 8.579, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in Subsection (a) Section 8.579, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under Section 8.568, said percentage to be the ratio of the value on July 1, 1949, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the

system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be every odd-numbered year.

(g) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1949, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

#### A8.580 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.570 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.570, and nothing shall deprive said member of said right.

### A8.581 LIMITATION ON EMPLOYMENT DURING RETIREMENT

No person retired as a member under Section 8.568 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

# A8.582 DEFINITION OF "FINAL COMPENSATION"— ALLOWANCES FIRST PAYABLE PRIOR TO JULY 1, 1975

Notwithstanding any other provision of this charter, but solely with respect to the determination of the amount of each retirement allowance payable to or on account of a person who retired for service or because of disability under the provisions of Section 8.568 of the charter prior to July 1, 1975, "final compensation," for time commencing on July 1, 1975, shall mean the rate of remuneration (excluding remuneration for overtime) attached on July 1, 1975 to the rank or position upon which such person's retirement allowance was determined when first effective; provided, further, that each such allowance shall be increased or decreased as of July 1, 1990, and thereafter on the effective date of any legislation fixing the rates of compensation for firefighters under section 8.405 of this charter by an amount equal to 50% of the rate of change in the salary attached to said rank multiplied by the allowance which was payable for the month immediately preceding each July 1.

This section does not give any person retired under the provisions of said Section 8.568, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1975.

This section does not authorize any decrease in the amount of any allowance from the amount being paid as of June 30, 1975.

No retirement allowance to which the definition of "final compensation" as set forth in this section is applicable shall be subject to adjustment under the provisions of Section 8.526 for time commencing July 1, 1975. Contributions, with interest credited thereon, standing to the credit of a person whose retirement allowance is subject to the provisions of this section and which were made by such person pursuant to the provisions of Section 8.526 shall, effective July 1, 1975, be combined with and administered in the same manner as such person's normal contributions. Contributions, with interest credited thereon, made by or charged against the city and county and standing to its credit on account of a person whose retirement allowance is subject to the provisions of this section and which were made by or charged against the city and county for the purposes of said Section 8.526 shall be applied to provide the benefits under this section.

# A8.584 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES AFTER NOVEMBER 1, 1976

Those persons who become miscellaneous officers and employees after November 1, 1976, shall be members of the retirement system subject to the provisions of Sections 8.584 and 8.584-1 through 8.584-12, in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.510, 8.520 and 8.526 of this charter notwithstanding the provisions of any other section of the charter; provided that persons who become members under the Public Employees' Retirement System of the State of California pursuant to Section 8.506 of this charter of members of State Teachers' Retirement System of the State of California pursuant to Section 8.506-1 of this charter shall not be members of the San Francisco City and County Employees' Retirement System and provided, further, that the retirement system shall be applied to persons employed on a part-time, temporary or substitute bases only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees who are members of the retirement system under Sections 8.507 or 8.509 of the charter prior to November 2, 1976 shall continue to be members of the system under Sections 8.507 or 8.509, as the case may be, and shall not be subject to any of the provisions of this section or Sections 8.584-1 through 8.584-12.

#### A8.584-1 DEFINITIONS

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the workers' compensation laws of the State of California shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section, but excluding remuneration for overtime.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning

of the absence, and that prior to entering city service, he was in the position first held by him in city service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any three consecutive years of credited service in the retirement system in which his average final compensation is the highest.

For the purposes of the retirement system and of this section, Section 8.584 and Sections 8.584-2 through 8.584-12, the terms "miscellaneous officer or employee," or "member," shall mean any officer or employee employed after November 1, 1976 who is not a member of the police or fire departments as defined in the charter for the purposes of the retirement system, provided that said terms shall not include those persons who become members under the Public Employees' Retirement System of the State of California pursuant to Section 8.506 of this charter or members of State Teachers' Retirement System of the State of California pursuant to Section 8.506-1 of this charter.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

#### A8.584-2 SERVICE RETIREMENT

Any member who completes at least 20 years of service in the aggregate credited in the retirement system and attains the age of 50 years, or at least 10 years of service in the aggregate credited in the retirement system, and attains the age of 60 years, said service to be computed under Section 8.584-7 may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of 65 years. A member retired after reaching the age of 60 years shall receive a service retirement allowance at the rate of 1-43 percent of said average final compensation for each year of service; provided, however, that upon the compulsory retirement of a member upon his attainment of the age of 65 years, if the allowance available to such member pursuant to the provisions of Section 8.584-6 shall be greater in amount than the service retirement allowance otherwise payable to such member under this section, then such member shall receive as his service retirement allowance, in lieu of the allowance otherwise payable under this section, an allowance computed in accordance with the formula provided in said Section 8.584-6. The service retirement allowance of any member retiring prior to attaining the age of 60 years, and after rendering 20 years or more of such service, computed under Section 8.584-7, and having attained the age of 50 years, shall be an allowance equal to the percentage of said average final compensation set forth opposite his age at retirement, taken to the preceding completed quarter year, for each year of service, computed under Section 8.584-7:

	Percent for
	Each Year of
Age at	Credited Service
Retirement	Cledited Service
50	1.0000
501/4	1.0167
501/2	1.0333
503/4	1.0500
51	1.0667
511/4	1.0833
511/2	1.1000
513/4	1.1167
52	1.1333
52 <sup>1</sup> / <sub>4</sub>	1.1500
521/2	1.1667
52 <sup>3</sup> / <sub>4</sub>	1.1833
53	1.2000
53 <sup>1</sup> / <sub>4</sub>	1.2167
531/2	1.2333
533/4	1.2500
54	1.2667
541/4	1.2833
541/2	1.3000
54¾	1.3167
55	1.3333
55 <sup>1</sup> / <sub>4</sub>	1.3500
551/2	1.3667
553/4	1.3833
56	1.4000
561/4	1.4167
561/2	1.4333
563/4	1.4500
57	1.4667
571/4	1.4833
571/2	1.5000
573/4	1.5167
58	1.5333
581/4	1.5500
581/2	1.5667
58¾	1.5833
59	1.6000
591/4	1.6167
591/2	1.6333
59¾	1.6500
60	1.6667

In no event shall a member's retirement allowance exceed seventy percent of his average final compensation.

Before the first payment of a retirement allowance is made, a member, retired under this section or Section 8.584-3, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits; provided, however, that at any time within 30 days after the date on which his compulsory retirement would otherwise have become effective, a member who has attained the age of 65 years may elect, without right of revocation, to withdraw his accumulated contributions, said election to be exercised in writing on a form furnished by the retirement system and filed at the office of said system and a member so electing shall be considered as having terminated his membership in said system on the date immediately preceding the date on which his compulsory retirement would otherwise have become effective and he shall be paid forthwith his accumulated contributions, with interest credited thereon. Notwithstanding the provisions of Section 8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than \$100 per month upon retirement after thirty years of service and after attaining the age of 60 years, and provided further that as to any member within 15 years or more of service at the compulsory retirement age of 65, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than \$100 per month. In the calculations under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service, provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this section providing for a minimum retirement allowance. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied on full-time service and compensation in the calculation of retirement allowances.

## A8.584-3 RETIREMENT FOR INCAPACITY

Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least 10 years of service credited in the aggregate, computed as provided in Section 8.584-7, shall be retired upon an allowance of 1-½ percent of the average final compensation of said member, as defined in Section 8.584-1 for each year of credited service, if such retirement allowance exceeds one-third of his average final compensation; otherwise 1-½ percent of his average final compensation multiplied by the number of years of city service which would be credited to him were such city service to continue until attainment by him of age 60, but such retirement allowance shall not exceed one-third of such average final compensation. In the calculation under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case

being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the three years immediately preceding his retirement. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied as full-time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

## A8.584-4 NO ADJUSTMENT FOR COMPENSATION PAYMENTS

No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workers' compensation laws of the State of California.

## A8.584-5 DEATH BENEFIT

If a member shall die, before retirement:

- (a) If no benefit is payable under subsection (b) of this section:
- (1) Regardless of cause, a death benefit shall be paid to the member's estate or designated beneficiary consisting of the compensation earnable by the member during the six months immediately preceding death, plus the member's contributions and interest credited thereon.
- (2) If a member sustains a traumatic bodily injury through external and violent means in the course and scope of employment and death results within 180 days of such injury, an additional insurance benefit of 12 months of compensation earnable shall be paid to the member's estate or designated beneficiary.
- (b) If, at the date of his death, he was qualified for service retirement by reason of service and age under the provisions of Section 8.584-2, and he has designated as beneficiary his surviving spouse, who was married to him for at least one full year immediately prior to the date of his death, one-half of the retirement allowance to which the member would have been entitled if he had retired for service on the date of his death shall be paid to such surviving spouse who was his designated beneficiary at the date of his death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of 18 years, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If, at the death of such surviving spouse, who was receiving an allowance under this Subsection (b), there be one or more unmarried children of such member under the age of 18 years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If the total of the payments of allowance made pursuant to this Subsection (b) is less than the benefit which was otherwise payable under Subsection (a) of this section, the amount of said benefit payable under Subsection (a) less an

amount equal to the total of the payments of allowance made pursuant to this Subsection (b) shall be paid in a lump sum as follows:

- (1) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.
- (2) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in Subsection (a) of this section in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of 18 years may make the election herein provided before any benefit has been paid under this section, for and on behalf of such children if in his judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this section, any allowance payable under this Subsection (b) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

Upon the death of a member after retirement, an allowance, in addition to the death benefit provided in the immediately preceding paragraph, shall be paid to his surviving spouse, until such surviving spouse's death or remarriage, equal to one-half of his retirement allowance as it was prior to optional modification and prior to reduction as provided in Subsection (a) of Section 8.514 of this charter, but exclusive of the part of such allowance which was provided by additional contributions. No allowance, however, shall be paid under this paragraph to a surviving spouse unless such surviving spouse was married to said member at least one year prior to his retirement. If such retired person leaves no such surviving spouse, or if such surviving spouse should die or remarry before every child of such deceased retired person attains the age of 18 years, the allowance which such surviving spouse would have received had he or she lived and not remarried shall be paid to retired person's child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years.

The amendments of this section contained in the proposition submitted to the electorate on November 6, 1984 are hereby declared to be prospective and shall not give any person a claim against the city and county relating to a death prior to ratification of this amendment by the State Legislature.

## A8.584-6 BENEFITS UPON TERMINATION OF MEMBERSHIP

Should any miscellaneous member cease to be employed as such a member, 265 through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and re-employment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that, if such member is entitled to be credited with at least five years of service, he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. A person who elects to allow his accumulated contributions to remain in the retirement fund shall be subject to the same age requirements as apply to other members under Section 8.584 for service retirement but he shall not be subject to a minimum service requirement. Upon the qualification of such member for retirement by reason of age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1-43 percent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid to his estate or designated beneficiary.

## A8.584-7 COMPUTATION OF SERVICE

The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(a) Time during which said member is a member of the retirement system under Section 8.584 and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

- (b) Service in the fire and police departments which is not credited as service as a member under Section 8.584 shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under Section 8.584, provided that the accumulated contributions standing to the credit of such member shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous member throughout the period of his service in either of such departments at the compensation he received in such departments.
- (c) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a miscellaneous member under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board.
- (d) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under Section 8.507.

- (e) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.
- (f) Time during which said member is absent from a status included in Subsections (a) or (b) next preceding which is not deemed absence from service under the provisions of Section 8.520 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

## A8.584-8 SOURCES OF FUNDS

All payments provided for members under Section 8.584 shall be made from funds derived from the following sources, plus interest earned on said funds:

- (a) There shall be deducted from each payment of compensation made to a member under Section 8.584 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member under Section 8.584, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.584-5 and 8.584-6.
- (b) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section 8.584-8, to provide the benefits payable to members under Section 8.584. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section 8.584, said percentage to be the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under Section 8.584 from contributions of the city and county, less the amount of such contributions, plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section 8.584 shall be a part of the fund in which all other assets of said system are included.

## A8.584-9 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.584-2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.584-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member convicted of a crime involving moral turpitude committed in connection with his duties as an officer or employee of the city and county shall, upon his removal from office or employment, pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.584-2, he shall have the right to elect, without right of revocation and within 90 days after his removal from office or employment to receive as his sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such removal from office or employment.

## A8.584-10 LIMITATION ON EMPLOYMENT DURING RETIREMENT

- (a) Except as provided in Section 8.511 of this charter and Section 8.511 of this charter and Subsection (b) of this section, no person retired as a member under Section 8.584 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.
- (b)(1) Service as an election officer or juror, or in the preparation for or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall not be affected by the provisions of Subsection (a) of this section.
- (2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.
- (3) If such retired person is elected or appointed to a position or office which subjects him to membership in the retirement system under Section 8.584, he shall re-enter membership under Section 8.584 and his retirement allowance shall be cancelled immediately upon such re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contribution of such member shall be the same as that for other members under Section 8.584. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his annuity at the time of his re-entry, but the amount thereof shall not exceed the amount of his accumulated contributions at the time of his retirement. Such member shall also receive credit for his service as it was at the time of his retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for service or disability engage in a gainful occupation prior to attaining the age of 60 years, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he engages in the gainful occupation, by such person if he held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired immediately prior to its abolishment.

## A8.584-11 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section 8.584 shall be adjusted in accordance with the provisions of Subsection (b) of Section 8.526 of this charter.

## A8.584-12 CONFLICTING CHARTER PROVISIONS

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections 8.584 through 8.584-11 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

# A8.585 MEMBERS OF THE FIRE DEPARTMENT ON AND AFTER JULY 1, 1975

Notwithstanding the provisions of Section 8.568 of this charter, members of the fire department, as defined in Section 8.585-1, who are members of the retirement system under Section 8.568 on the effective date of this section and persons who become members of the retirement system under Section 8.568 after said effective date and prior to July 1, 1975, shall have the option, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than June 30, 1975, of being members of the system under this section instead of said Section 8.568, the election pursuant to said option to be effective as of July 1, 1975; provided that such of said members who, during the period from the effective date of this section through June 30, 1975, are absent by reason of service in the armed forces of the United States or by reason of any other service included in Section 8.520(a) of this charter shall have the same option of electing to be members under this section instead of Section 8.568, until 90 days after their return to service in the fire department.

Those persons who become members of the fire department, as defined in Section 8.585-1, on or after July 1, 1975, and those persons who elect to be members under this section as provided in the preceding paragraph, shall be members of the system subject to the provisions of Sections 8.585, 8.585-1, 8.585-2, 8.585-3, 8.585-4, 8.585-5, 8.585-6, 8.585-7, 8.585-8, 8.585-9, 8.585-10, 8.585-11, 8.585-12 and 8.585-13 (which shall apply only to members under Section 8.585) in addition to the provisions contained in Sections 3.670 to 3.672, both inclusive, and Sections 8.500, 8.510 and 8.520 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Section 8.568 of this charter.

#### A8.585-1 DEFINITIONS

The following words and phrases as used in this section, Section 8.585 and Sections 8.585-2 through 8.585-13, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence, he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

For the purpose of Sections 8.585 through 8.585-13, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under Section 8.565 or Section 8.568 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean persons employed on July 1, 1975, or thereafter, regardless of age, to perform the duties performed under the titles of pilot of fireboats, or marine engineer of fireboats or employed after July 1, 1975, at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the

duties performed by members of the salvage corps in the fire department, or duties performed under the title of hydrant-gatemen.

Any fire service performed by such members of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

## A8.585-2 SERVICE RETIREMENT

Any member of the fire department who completes at least twenty-five (25) years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.585-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to fifty-five (55) percent of the final compensation of said member, as defined in Section 8.585-1, plus an allowance at the rate of four percent of said final compensation, for each year of service rendered in excess of twenty-five (25) years; provided, however, that such retirement allowance shall not exceed seventy-five (75) percent of said member's final compensation. A member retired after attaining the age of sixty-five (65) years, but before completing twenty-five (25) years of service in the aggregate computed under Section 8.585-10, shall receive a retirement allowance which bears the same ratio to fifty (50) percent of the final compensation of said member, as defined in Section 8.585-1, as the service with which he or she is entitled to be credited, bears to twenty-five (25) years. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no spouse, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section 8.585-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his or her allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

## A8.585-3 RETIREMENT FOR INCAPACITY

Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.585-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.585-1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.585-1. he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance, shall not be less than 55 percent of such final compensation.

If at the time of retirement because of disability, he is qualified as to age and service for retirement under Section 8.585-2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under Section 8.585-2, but not less than 55 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.585-10, shall be retired upon an allowance of 1-1/2 percent of the final compensation of said member as defined in Section 8.585-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section 8.585-10, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under Section 8.585-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

#### A8.585-4 DEATH ALLOWANCE

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the

date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under Section 8.585 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

## A8.585-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the fire department resulting from any cause, other than an injury received in or illness caused by performance of duty,

- (a) if his death occurred after qualification for service retirement, under Section 8.585-2, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death of three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until marriage, to his surviving wife, or
- (b) if his death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he would have been entitled under Section 8.585-2 if

he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife, or

- (c) if his death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died, or
- (d) if his death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.585-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.585-3 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood, or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and Section 8.585-4, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.585-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.585 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.585-10.

## A8.585-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section 5.585 shall be increased or decreased as of July 1, 1990, and thereafter on the effective date of any legislation fixing the rates of compensation for firefighters under section 8.405 of this charter by an amount equal to 50 percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank and position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his beneficiary on June 30, 1976, or on the date such member or beneficiary began to receive the allowance, whichever is later.

## A8.585-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

## A8.585-8 DEATH BENEFIT

If a member of the fire department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section 8.585-4 or 8.585-5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

#### A8.585-9 REFUNDS AND REDEPOSITS

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund, the amount refunded to him or her. Should a member of the fire department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or

her at the time of change, equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the fire department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues.

## A8.585-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.
- (b) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under Section 8.585-3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.
- (c) Time during which said member is absent from a status included in Subsections (a) and (b) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

### A8.585-11 SOURCES OF FUNDS

All payments provided for members under Section 8.585 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) The normal rate of contribution for each member under Section 8.585 shall be based on his age taken to the next lower complete quarter year, (1) at the date he became a member under Section 8.568, in the case of persons who are members under that section, or (2) on his age at the date he becomes a member under Section 8.585 in the case of persons who become members on or after July 1, 1975, without credit for service counted under Section 8.585-10. The age of entrance into the fire department shall be determined by deducting the member's service credited under Section 8.585-10 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under Section 8.585, shall be such as, on the average for such member, will provide, assuming service without interruption, under Section 8.585-2, one-third of that portion of the service retirement allowance to which he

would be entitled, without continuance to dependents, upon first qualifying as to age and service for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed seven percent.

- (b) The dependent contributions for each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section 8.585-2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under Section 8.585-5 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.
- (c) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.585-8, 8.585-9 and 8.585-10.
- (d) Contributions based on time included in Subsections (a), (b) and (c) of Section 8.585-10, and deducted prior to July 1, 1975, from compensation of persons who become members under Section 8.585, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, together with contributions made by such members pursuant to the provisions of Section 8.526 and standing with interest thereon to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.
- (e) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under Section 8.585, shall be applied to provide the benefits under said Section 8.585.

- (f) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section 8.585-11, to provide the benefits payable to members under Section 8.585. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in Subsection (a) of this Section 8.585-11, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under Section 8.585, said percentage to be the ratio of the value on July 1, 1975, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be every odd-numbered year.
- (g) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members of the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1975, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

## A8.585-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.585-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.585-2, and nothing shall deprive said member of said right.

#### A8.585-13 LIMITATION IN EMPLOYMENT DURING RETIREMENT

Except as otherwise provided in section 8.511 of this charter, no person retired as a member under Section 8.585 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards

and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section.

## A8.585-14 RIGHT TO TRANSFER

Notwithstanding any provisions of this charter to the contrary, any person who, on or after January 1, 1981, is a member of the Fire Department, and is a member of the Retirement System under Charter Section 8.585, may become a member of the Retirement System under Charter Section 8.588 by filling in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.585. This waiver must be without right of revocation and on a form furnished by the Retirement System. The Retirement Board may require that this waiver be executed by additional parties before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.588 shall receive service credit under Charter Section 8.588 equal to their service credit under Charter Section 8.585 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.588 shall not be subject to any of those provisions of Charter Section 8.585 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year for those persons electing this transfer to Charter Section 8.588 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.585 to Charter Section 8.588 shall receive a monetary consideration not to exceed \$40,000 calculated at the rate of \$2,500 for each year of said service credit up to 10 years and then at the rate of \$1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the city and county contributions held by the Retirement System.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other charter or ordinance provisions, no change in the provisions of Charter Section 8.588 and those provisions incorporated therein by reference, shall apply to those persons transferring pursuant to this section unless separately approved by the electorate in a separate charter amendment.

Notwithstanding any other charter or ordinance provisions except proposed Charter Section 8.588-15 as proposed to the electorate for the election of November 4, 1980, that portion of any benefits pursuant to this section, payable because of any increase in benefits under Charter Section 8.588 subsequent to July 1, 1980, shall be reduced dollar for dollar when payable not to exceed the amount of monetary consideration plus interest said member received for making this transfer.

CH-243 (3-99)

## A8.585-15 **VESTING**

Should any member of the fire department who is a member of the Retirement System under charter section 8.585, with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50.

Any member of the fire department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the fire department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all right to any benefits under this section except refund of his or her accumulated contributions.

Every retirement or death allowance payable to or on account of any member under section 8.585-15 shall be adjusted in accordance with the provisions of section 8.585-6 provided that if the member's accrued service credit is less than 25 years the section 8.585-6 adjustment will be multiplied by a fraction where the denominator is 25 and the numerator is equal to the member's accrued service credit at the date of termination.

# A8.586 MEMBERS OF THE POLICE DEPARTMENT AFTER NOVEMBER 1, 1976

Those persons who become members of the police department, as defined in Section 8.586-1, on or after November 2, 1976, shall be members of the system subject to the provisions of Sections 8.586, 8.586-1, 8.586-2, 8.586-3, 8.586-4, 8.586-5, 8.586-6, 8.586-7, 8.586-8, 8.586-9, 8.586-10, 8.586-11, 8.586-12, 8.586-13 and 8.586-14 (which shall apply only to members under Section 8.586) in addition to the provisions contained in Sections 3.670 to 3.672, both inclusive, and Sections 8.500, 8.510, 8.520 and 8.526 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Sections 8.544 or 8.559 of this charter.

#### A8.586-1 DEFINITIONS

The following words and phrases as used in this section, Section 8.586 and Sections 8.586-2 through 8.586-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

Subject to the requirement that it be payable in cash and that overtime be excluded, "compensation" for pension purposes may be defined in a collective

(3-99) CH-244

bargaining agreement. Provided, however, that for retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

- (a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,
- (b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections 8.586 through 8.586-14, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department employed after November 1, 1976 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after November 1, 1976 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of criminologist, photographer, police woman or jail matron; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the police department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

CH-245 (3-99)

"Charter" shall mean the charter of the City and County of San Francisco. Words used in the masculine gender shall include the feminine and neuter

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1998)

## A8.586-2 SERVICE RETIREMENT

Any member of the police department who completes at least five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.586-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to the larger of (a) two percent of final compensation for each of the first twenty-five (25) years of service, then three percent of final compensation for each year of service rendered in excess of twenty-five (25) years or (b) the percent of final compensation (as defined in Section 8.586-1) set forth opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section 8.586-10:

Retirement Age	Percent for Each Year of Credited Service
50	2.000
50.25	2.035
50.5	2.070
50.75	2.105
51	2.140
51.25	2.175
51.5	2.210
51.75	2.245
52	2.280
52.25	2.315
52.5	2.350
52.75	2.385
53	2.420
53.25	2.455
53.5	2.490
53.75	2.525
54	2.560
54.25	2.595
54.5	2.630
54.75	2.665
55	2.700

In no event, however, shall such a retirement allowance exceed seventy-five (75) percent of a member's final compensation. (Amended November 1998)

(3-99) CH-246

## A8.586-3 RETIREMENT FOR INCAPACITY

Any member of the police department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.586-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.586-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.586-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section 8.586-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section 8.586-2, but not less than 50 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.586-10, shall be retired upon an allowance of 1-1/2 percent of the final compensation of said member as defined in Section 8.586-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Amended November 1998)

## A8.586-4 DEATH ALLOWANCE

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to three-fourths

CH-247 (3-99)

of the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to three-fourths of the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to threefourths of the retirement allowance of the member, except that if he or she was a member under Section 8.586 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependent upon him or her for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death. (Amended November 1998)

## A8.586-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the police department resulting from any cause other than an injury received in, or illness caused by performance of duty,

- (a) if the death occurred after qualification for service retirement under Section 8.586-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his or her death, as the case may be, shall be continued through out his or her life or until remarriage to his surviving wife, or
- (b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half

(3-99) CH-248

of the retirement allowance to which he or she would have been entitled under Section 8.586-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his surviving wife, or

- (c) if his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or
- (d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.586-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.586-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section 8.556-4 "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.586-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.586 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.586-10. (Amended November 1998)

CH-249 (3-99)

## A8.586-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section 8.586 shall be adjusted in accordance with the provisions of Subsection (b) of Section 8.526 of this charter. (Amended November 1998)

## A8.586-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits. (Amended November 1998)

#### A8.586-8 DEATH BENEFIT

If a member of the police department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section 8.586-4 or 8.586-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Amended November 1998)

## A8.586-9 REFUNDS AND REDEPOSITS

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made, according to the

(3-99) CH-250

charter section under which his or her membership in the retirement system continues. (Amended November 1998)

## A8.586-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under Section 8.586 or 8.588, respectively.
- (b) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.586-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.
- (c) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his or her account. (Amended November 1998)

## A8.586-11 SOURCES OF FUNDS

All payments provided for members under Section 8.586 shall be made from funds derived from the following sources, plus interest earned on said funds:

- (a) There shall be deducted from each payment of compensation made to a member under Section 8.586 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Sections 8.586-8, 8.586-9 and 8.586-10.
- (b) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section 8.586-11, to provide the benefits payable to members under Section 8.586. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any

year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section 8.586, said percentage to the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under Section 8.586 from contributions of the city and county, less the amount of such contributions plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value on said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section 8.586, shall be a part of the fund in which all other assets of said system are included. (Amended November 1998)

## A8.586-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.586-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.586-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the police department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.586-2, he or she shall have the right to elect, without right of revocation and within 90 days of the termination of his or her employment, whether to withdraw all of his or her accumulated contributions or to receive as his or her sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such termination of employment. (Amended November 1998)

## A8.586-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT

(a) Except as provided in Section 8.511 of this charter and in Subsection (b) of this section, no person retired as a member under Section 8.586 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(3-99) CH-252

- (b)(1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.
- (2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.
- (3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section 8.586, he or she shall re-enter membership under Section 8.586 and his or her retirement allowance shall be cancelled immediately upon his/her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section 8.586. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.
- (c) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Amended November 1998)

#### A8.586-14 CONFLICTING CHARTER PROVISIONS

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections 8.586 through 8.586-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Amended November 1998)

## A8.586-15 VESTING

Notwithstanding any provisions of this charter to the contrary, should any member of the police department who is a member of the Retirement System under Charter Section 8.586 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit, calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50. (Amended November 1998)

# A8.588 MEMBERS OF THE FIRE DEPARTMENT AFTER NOVEMBER 1, 1976

Those persons who become members of the fire department, as defined in Section 8.588-1, on or after November 2, 1976, shall be members of the system subject to the provisions of Sections 8.588, 8.588-1, 8.588-2, 8.588-3, 8.588-4, 8.588-5, 8.588-6, 8.588-7, 8.588-8, 8.588-9, 8.588-10, 8.588-11, 8.588-12, 8.588-13, and 8.588-14 (which shall apply only to members under Section 8.588) in addition to the provisions contained in Sections 3.670 to 3.672, both inclusive, and Sections 8.500, 8.510, 8.520 and 8.526 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Sections 8.568 or 8.585 of this charter. (Amended November 1996)

(3-99) CH-252.2

#### A8.588-1 DEFINITIONS

The following words and phrases as used in this section, Section 8.588 and Sections 8.588-2 through 8.588-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime. Subject to requirement that it be payable in cash and that overtime be excluded, "compensation" for pension purposes may be defined in a collective bargaining agreement.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the fire department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For the purpose of Sections 8.588 through 8.588-14, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department employed after November 1, 1976 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after November 1, 1976 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of pilot of fireboats, or marine engineer of fireboats; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the fire department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1996)

CH-253 (12-96)

## A8.588-2 SERVICE RETIREMENT

Any member of the fire department who completes at least five (5) years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.588-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to the larger of (a) two percent of final compensation for each of the first twenty-five (25) years of service, then three percent of final compensation for each year of service rendered in excess of twenty-five (25) years or (b) the percent of final compensation (as defined in Section 8.588-1) set forth opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section 8.588-10:

Retirement Age	Percent for Each Year of Credited Service
50	2.000
50.25	2.035
50.5	2.070
50.75	2.105
51	2.140
51.25	2.175
51.5	2.210
51.75	2.245
52	2.280
52.25	2.315
52.5	2.350
52.75	2.385
53	2.420
53.25	2.455
53.5	2.490
53.75	2.525
54	2.560
54.25	2.595
54.2 <i>5</i> 54.5	2.630
54.75	2.665
55	2.700

In no event, however, shall such a retirement allowance exceed seventy-five (75) percent of a member's final compensation. (Amended November 1996)

## A8.588-3 RETIREMENT FOR INCAPACITY

Any member of the fire department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.585-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board

(12-96) CH-254

for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.585-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.588-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than fifty percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section 8.588-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section 8.588-2, but not less than 50 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.588-10, shall be retired upon an allowance of 1-1/2 percent of the final compensation of said member as defined in Section 8.588-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he occupied at the time of his or her retirement. (Amended November 1996)

#### A8.588-4 DEATH ALLOWANCE

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to three-fourths of the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to three-fourths of the

CH-255 (12-96)

retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to three-fourths of the retirement allowance of the member, except that if he or she was a member under Section 8.588 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his or her child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependent upon him or her for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death. (Amended November 1996)

## A8.588-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the fire department resulting from any cause other than an injury received in, or illness caused by performance of duty,

- (a) if the death occurred after qualification for service retirement under Section 8.588-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his death, as the case may be, shall be continued throughout his or her life or until remarriage, to his or her surviving wife, or
- (b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section 8.588-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage, to his surviving wife, or
- (c) his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-

(12-96) CH-256

five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.588-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.588-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage, to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his or her child or children under said age collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section 8.588-4 "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.588-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.588 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.588-10. (Amended November 1996)

## A8.588-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section 8.588 shall be adjusted in accordance with the provisions of Subsection (b) of Section 8.526 of this charter.

CH-257 (3-99)

## A8.588-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### A8.588-8 DEATH BENEFIT

If a member of the fire department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section 8.588-4 or 8.588-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Amended November 1996)

## A8.588-9 REFUNDS AND REDEPOSITS

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the fire department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the fire department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues.

## A8.588-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termina-

(3-99) CH-258

tion of his or her service while he or she was a member under any other charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under Section 8.586 or 8.588, respectively.
- (b) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.588-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.
- (c) Time during which said member earned compensation as a paramedic with the department of public health, provided that the accumulated contributions on account of such service are transferred to his or her 8.588 account or, if previously refunded, are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board. The retirement board shall require that a waiver be executed by said member so that any paramedic service covered by Section 8.588 is not also covered by other pension provisions in this charter.
- (d) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his or her account. (Amended November 1998)

#### A8.588-11 SOURCES OF FUNDS

All payments provided for members under Section 8.588 shall be made from funds derived from the following sources, plus interest earned on said funds:

- (a) There shall be deducted from each payment of compensation made to a member under Section 8.588 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Sections 8.588-8, 8.588-9 and 8.588-10.
- (b) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section 8.588-11, to provide the benefits payable to members under Section 8.588. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any

CH-259 (3-99)

year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section 8.588, said percentage to the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under Section 8.588 from contributions of the city and county, less the amount of such contributions plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value on said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section 8.588, shall be a part of the fund in which all other assets of said system are included. (Amended November 1996)

## A8.588-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.588-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.588-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the fire department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the fire department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.588-2, he or she shall have the right to elect, without right of revocation and within 90 days of the termination of his or her employment, whether to withdraw all of his or her accumulated contributions or to receive as his or her sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such termination of employment. (Amended November 1996)

(3-99) CH-260

# A8.588-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT

(a) Except as provided in Section 8.511 of this charter and in Subsection (b) of this section, no person retired as a member under Section 8.588 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(b)(1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section 8.588, he or she shall re-enter membership under Section 8.588 and his or her retirement allowance shall be canceled immediately upon his or her re-entry. The provisions of

CH-260.1 (12-98)

Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section 8.588. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Amended November 1996)

# A8.588-14 CONFLICTING CHARTER PROVISIONS

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections 8.588 through 8.588-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Amended November 1996)

# A8.588-15 VESTING

Notwithstanding any provisions of this charter to the contrary should any member of the fire department who is a member of the Retirement System under Charter Section 8.588 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit, calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50. (Amended November 1996)

# A8.590-1 DECLARATION OF POLICY

It is hereby declared to be the policy of the City and County of San Francisco that strikes by firefighters, police officers and airport police officers are not legally permissible, and that a method should be adopted for peacefully and equitably resolving disputes. It is the further purpose and policy of the City and County of San Francisco that in the event the procedures herein adopted are invoked by the City and County of San Francisco or by a recognized employee organization representing firefighters, police officers or airport police officers, that they shall supersede and displace all other formulas, procedures and provisions relating to wages, hours, benefits and other terms and conditions of employment found in this Charter, in the

CH-261 (12-96)

ordinances and resolutions of the City and County of San Francisco, or in the rules, regulations or actions of boards or commissions of the City and County of San Francisco.

#### A8.590-2 EMPLOYEES COVERED

These sections 8.590-1 through 8.590-7, inclusive, shall apply to the several ranks of the fire department and police department as provided for in Sections 3.542 and 3.531 of this Charter, respectively, and to all of the classifications of airport police officers, jointly referred to in these sections as "firefighters," "police officers" and "airport police officers."

#### A8.590-3 PROHIBITION AGAINST STRIKES

If any firefighter, police officer or airport police officer employed by the City and County of San Francisco engages in a strike as defined by Section 8.346(a) of this charter against the City and County of San Francisco, said employee shall be dismissed from his or her employment pursuant to Charter Section 8.345 and 8.346.

## A8.590-4 OBLIGATION TO NEGOTIATE IN GOOD FAITH

Notwithstanding any other provisions of this Charter, or of the ordinances, rules or regulations of the City and County of San Francisco and its departments, boards and commissions, the City and County of San Francisco, through its duly authorized representatives, and recognized employee organizations representing classifications of firefighters, police officers and airport police officers shall have the mutual obligation to negotiate in good faith on all matters within the scope of representation as defined by Government Code Sections 3500, et seq., relating to the wages, hours, benefits and terms and conditions of City and County employment, including the establishment of procedures for the resolution of grievances concerning the interpretation or application of any negotiated agreement. Unless and until agreement is reached through negotiations between authorized representatives of the City and County of San Francisco and the recognized employee organization for the classifications of fire department, police department and airport police employees, or a determination is made through the impartial arbitration procedure hereinafter provided, no existing benefit, term or condition of employment for said fire department, police department or airport police employees shall be altered, eliminated or changed. Agreements reached by the duly authorized representatives for the City and County of San Francisco, its departments, boards and commissions and the recognized employee organizations pursuant to this Section shall be binding on the City and County of San Francisco, and on its departments, boards, commissions, officers and employees once adopted by the board of supervisors. Said agreements shall supersede any and all other conflicting procedures, provisions and formulas contained in this Charter relating to wages, hours, benefits or terms and conditions of employment.

## A8.590-5 IMPASSE RESOLUTION PROCEDURES

(a) Subject to section 8.590-5(g), disputes or controversies pertaining to wages, hours, benefits or terms and conditions of employment which remain unresolved after good faith negotiations between the City and County of San Francisco, its departments, boards and commissions and a recognized employee organization representing firefighters, police officers or airport police officers shall be submitted to a three-

(12-96) CH-262

member board of arbitrators upon the declaration of an impasse either by the authorized representative of the City and County of San Francisco or by the recognized employee organization involved in the dispute.

- (b) Representatives designated by the City and County of San Francisco and representatives of the recognized employee organization involved in the dispute shall each select and appoint one arbitrator to the board of arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the arbitration board shall be selected by agreement between the City and County of San Francisco and the employee organization, and shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and County of San Francisco and the recognized employee organization involved in the dispute cannot agree upon the selection of the neutral arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) persons to act as the neutral arbitrator, they shall alternately strike names from the list of nominees until one name remains and that person shall then become the neutral arbitrator and chairperson of the arbitration board.
- (c) Any arbitration proceeding convened pursuant to this article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The arbitration board shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The arbitration board, in the exercise of its discretion, may meet privately with the parties, mediate or mede-arb the issues in dispute. The arbitration board may also adopt such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.
- (d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the arbitration board shall direct each of the parties to submit, within

CH-262.1 (12-96)

such time limit as the arbitration board may establish, a last offer of settlement on each of the remaining issues in dispute. The arbitration board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial arbitration board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the arbitration board.

- (e) After reaching a decision, the arbitration board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the arbitration board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of the arbitration board, as it may be modified or amended by the parties, shall be publicly disclosed. Except as limited by Section 8.590-7, the arbitration decision, as it may be modified or amended by the parties, shall supersede any and all other relevant formulas, procedures and provisions of this Charter relating to wages, hours, benefits and terms and conditions of employment; and it shall be final and binding on the parties to the dispute, including the City and County of San Francisco, its commissions, departments, officers and employees. No other actions or procedural steps to confirm or approve the decision of the arbitration board shall be permitted or required; provided, however, that the City and County of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action that is necessary to carry out and effectuate the decision of the arbitration board.
- (f) The expenses of any arbitration proceedings convened pursuant to these Charter sections, including the fee for the services of the chairperson of the arbitration board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the arbitration board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.
- (g) The impasse resolution procedures set forth in Section 8.590-5 shall not apply to:
- 1. any dispute or controversy concerning the San Francisco Police Department's crowd control policies;
- 2. any procedures or practices relating to the processing and disposition of complaints handled by the Office of Citizens' Complaints; or matters relating to disciplinary procedures that apply to disciplinary actions involving members of the San Francisco police department and fire department covered by these sections; or matters covered by Charter section 8.343; and

3. any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local anti-discrimination laws, ordinances or regulations.

In the event the City acts on a matter it has determined relates to or pertains to a consent decree, or in the event the City acts to ensure compliance with federal, state, or local anti-discrimination laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration.

# A8.590-6 RETIREE BENEFIT ADJUSTMENTS

No agreement reached by the parties and no decision of the arbitration board shall reduce the vested retirement benefits of retirees or employees of the fire department, police department or of the airport police officers. Retirement and death allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article, except that the amount to which said allowances are set and adjusted shall not be less than the amount said allowances would be if the salaries of the uniformed forces in the police and fire departments continued to be set pursuant to Charter Section 8.405. Any agreement or decision of the arbitration board altering vested retirement benefits shall be subject to the written approval of the individual beneficiaries thereof.

# A8.590-7 PRESERVATION OF TAX BENEFITS

- (a) Sections 8.590-1 through 8.590-7, in their entirety, shall be subject to and limited by charter section 8.500 and any ordinances enacted pursuant thereto. Sections 8.590-1 through 8.590-7 shall be effective only to the extent that benefits authorized by or authorized pursuant to those sections do not have an adverse consequence on the tax treatment of benefits provided to any employee of the city and county.
- (b) Any agreement reached by the parties or any decision of the arbitration board which authorizes a modification of any aspect of the retirement system or of any aspect of the provision for or delivery of retirement benefits shall not become effective until the following occur:
- (1) The retirement board, acting in its fiduciary capacity, forwards to the board of supervisors certification that implementation of the modifications presents no risk to the tax-qualified status of the retirement system. Such certification shall be based upon the advice of the general manager, the actuary of the retirement system, and any outside consultants that they may in their discretion retain; and,
- (2) After having received the certification referred to in the previous paragraph and after having made its own independent finding based on clear and convincing evidence that implementation of the modifications presents no risk to the tax-qualified status of the retirement system and will not increase the taxes of city and county employees, the board of supervisors, by a three-quarters vote, enacts an ordinance making the modifications effective.
- (c) Costs of any outside consultants retained by the city and county pursuant to this section shall be borne equally by the city and county and by the bargaining units concerned.

# APPENDIX B

# **PORT AGREEMENTS\***

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.



# **B3.581** POWERS AND DUTIES

The port commission shall have all the powers and duties given to boards and commissions by Section 3.500 of the charter and shall have the power to establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs. Subject to the terms and conditions of the transfer and any supplemental agreements relating thereto, the port commission shall have the control and management of all real and personal property transferred under the Statutes 1968, ch. 1333, or otherwise acquired or purchased with funds under its control or acquired or purchased by it within the scope of its authority, or otherwise placed under its management, supervision and control. The property under the control and management of the commission shall be known as the port area. The port commission shall have the power and duty to use, conduct, operate, maintain, manage, regulate, and control the port area of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said port area, or which may further the interests of the port in world trade, including, without limiting the generality of the foregoing, the exclusive power to perform or accomplish the following:

- (a) The improvement, operation and conduct of the harbor, and any and all improvements or facilities located thereon;
- (b) The construction, reconstruction, repair, operation and use of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation, or located within the port area;
- (c) The establishment, improvement and conduct of railroad and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and conduct of air commerce and navigation and railroad transportation;
- (d) The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreation facilities and all works, buildings, facilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;
- (e) The preservation or restoration of marine resources consistent with the primary mission of the harbor of San Francisco;
- (f) The grant of franchises thereof for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenues from such leases, franchises, permits, licenses and privileges. Such lease or leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the state and with the requirements of commerce and navigation, or if the port commission of the City and County of San Francisco determines that any portion of the transferred lands is not required for the foregoing uses described in this section, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds will yield maximum profits to be used by the commission in the furtherance of commerce and navigation;
- (g) Leases and franchises granted or made by the port commission shall be administered exclusively by the operating forces of the port commission;

- (h) The power to nominate for appointment a port director who shall be the chief executive of the port commission and who shall have the management of all the affairs and activities placed under the jurisdiction of the commission. The mayor shall appoint a port director. He shall devote his entire time to the duties of his office and his salary shall be fixed by the commission. He shall hold his office at the pleasure of the commission and shall have the management of said harbor and of all of the facilities and equipment thereof and all bureaus and departments established for the operation of said harbor or for the operation of any equipment or facility thereof. Subject to the approval of the commission he shall appoint and remove any and all heads of departments or bureaus, who may not be subject to the civil service provisions of the charter. He shall possess the necessary administrative, executive and technical qualifications necessary to enable him to perform the duties of his office. His compensation shall not exceed prevailing salaries paid those holding similar positions in comparable maritime employment. The commission may confer on him such additional powers and authority as it may see fit;
- (i) To regulate the berthing, anchoring, towing, loading and unloading and mooring of vessels within the port;
- (j) To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession;
- (k) To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the port, and for services rendered by the port commission, and to provide for the collection thereof;
- (1) To enter into contracts, agreements, or stipulations germane to the scope of its powers and duties;
- (m) To give such bonds or assurances as may be required by the United States in the operations permitted hereunder;
- (n) To provide and equip offices within or without the port, within other states, or in foreign countries, and through such employees and agencies as it may deem expedient;
- (o) To contract for and operate foreign trade zones within the port area or auxiliary to the port area, or such zones or sub-zones as have been operated by the San Francisco Port Authority. Agreement may be made with the public utilities commission for operation of future zones or sub-zones in other areas;
- (p) Members and officers of the port commission shall be exempt from the provisions of the city charter relating to absences from the state, but shall advise the mayor and the board of supervisors in advance of such absences;
- (q) May promote the maritime and commercial interests of the harbor by advertising its advantages and facilities and by the solicitation of business. The advertising and solicitation may be conducted within or without this state and through such agencies, mediums, employees and agents as are determined by the commission. The commission may, in its discretion, publish and distribute a magazine, pamphlets, booklets and other printed and advertising matter for the purpose of developing traffic and promoting and maintaining the commerce and prestige of the port, and may use any moneys of the harbor fund for the special purposes authorized by this provision. Members and employees of the commission in attending conventions of port authorities and meetings of transportation clubs, trade associations and business organizations that may advance the interests of the port shall be allowed their actual necessary expenses in the performance of such services as may from time to time be deemed

desirable by the commission and shall be allowed hospitality expenses necessarily incurred in furthering the interests of the port;

- (r) To issue revenue bonds as provided in Section 7.305;
- (s) To expend all funds necessary to the carrying out of the powers and duties herein expressed;
- (t) This section does hereby vest in the port commission all of the powers set forth in Section 3 and Section 5 of the Statutes of 1968, Chapter 1333, which provisions are hereby incorporated in the charter by this reference.

# B3.582 TRANSFER OF HARBOR

The City and County of San Francisco shall accept the transfer and assume jurisdiction and control of the harbor of San Francisco and the facilities thereof in accordance with the terms and conditions of Statutes 1968, ch. 1333. All the powers and duties incident to the management, government, control and administration of said harbor and all properties and utilities used in connection therewith, shall be vested in the port commission of the City and County of San Francisco.

The board of supervisors of the City and County of San Francisco shall have and is hereby granted power to enter into any agreement with the State of California, the director of finance, or any officer, agency or commission of the State of California, and to pass all necessary legislation and to do or perform any other act or acts deemed necessary to effect the transfer of the jurisdiction and control of the harbor of San Francisco, or any of the facilities thereof, to the City and County of San Francisco.

## B3.583 STATUS OF EMPLOYEES

All employees of the port authority who, at the time the transfer provided for herein shall go into effect, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, with all the rights, privileges and benefits of said system and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

All employees of the port authority who, at the time the transfer provided for herein shall go into effect, are covered under the provisions of a retirement program other than the Public Employees' Retirement System of the State of California shall thereafter continue to be covered under such retirement program and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the coverage of such employees under such retirement program.

Persons who, after the transfer provided for herein has gone into effect, become employees of the city and county in positions related to the operation of the State Belt Railroad and who become covered under the provisions of the Railroad Retirement Act by virtue of their employment in such positions shall not be members of the San Francisco City and County Employees' Retirement System.

#### B3.584 BUDGETING AND FISCAL PROCEDURE

In the matter of the control and operation of the harbor and of the facilities and equipment thereof, including the matter of budgets and appropriations, the port commission shall be subject to the budgetary and fiscal procedure elsewhere provided for in this charter.

# **B3.585 LEGAL ADVISOR**

The city attorney shall be the legal advisor of the commission, and may, with the approval of the commission, compromise, settle or dismiss any litigation or legal proceeding, pending for or on behalf of the commission relative to any matter under its jurisdiction, and said commission may with the consent of the mayor and the approval of the city attorney appoint special counsel.

# **B6.406 HARBOR REVENUES AND EXPENDITURES**

The revenues of the harbor and of all properties and facilities incident thereto, or used in connection therewith, shall be deposited in a separate fund in the treasury of the city and county; and a harbor trust fund or trust funds shall be established by the city and county; and the city and county shall deposit in the fund or funds all monies received attributable to facilities on the transferred lands in the harbor.

Subject to the terms and conditions of Statute 1968, ch. 1333, appropriations from such funds shall be made for the following purposes and in the order named, viz:

- (a) for the payment of maintenance and operating expenses, pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish or the board of supervisors may require;
- (b) for payment of the principal and interest of any obligations of the State of California and assumed or agreed to be paid by the City and County of San Francisco;
- (c) for the payment of principal, interest, reserve funds, sinking funds, and other funds established for the benefit of revenue bonds issued pursuant to the authority contained in Section 7.305 of this charter;
- (d) for capital improvements to the properties of said harbor or used in connection with the operation thereof;
- (e) for the payment of the principal and interest on any general obligation bonds issued by the City and County of San Francisco for the acquisition, construction, repair or extension of said harbor or of any of the facilities used in connection therewith:
- (f) an amount which shall be sufficient to meet the cost of reconstruction and replacement made necessary by the physical and functional depreciation of any of the properties or equipment of said harbor as the same shall occur;
- (g) to pay for extension and betterments to said harbor or to the equipment and facilities thereof; and,
- (h) to establish a surplus or sinking fund for the improvement or extension of the harbor or any facility used in connection therewith.

## **B7.305** REVENUE BONDS OF THE PORT COMMISSION

The Port Commission shall have the exclusive power to perform or accomplish the issuance of revenue bonds in the same manner and to the same extent as is provided for by the San Francisco Harbor Revenue Bond Act of 1951, enacted by Stats. 1951, Chapter 1712, page 4020, of the Statutes of California and codified as Sections 3300 to 3369 of the Harbors and Navigation Code of the State of California, except that the provisions of said Act codified as Section 3338 of the said Harbors and Navigation Code shall not be applicable to these bonds and the bonds shall instead be governed by the following provision:

The San Francisco Port Commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds and may provide that the bonds may be sold on the basis of the lowest net interest cost to the San Francisco Port Commission, the coupon rates to be fixed by the successful bidder on the sale of the bonds. The San Francisco Port Commission may authorize the City Treasurer to sell bonds at less than their par or face value, but no bond may be sold at a price below 95 percent of the principal amount of the bond and accrued interest thereon. The said San Francisco Port Commission may set the annual rate or rates of interest which the bonds to be issued shall bear, which rate or rates, at the discretion of the said Commission, may be determined by the bidder at the time of sale of said bonds. Such interest may be payable at such periods as may be fixed by the Commission.

All of the other provisions of said Act are by this reference incorporated in and made a part of this charter, except that where the term "Board of State Harbor Commissioners" is used it shall be deemed to mean the "Port Commission," and where the term "San Francisco Harbor" is used it shall be deemed to mean all the property under the jurisdiction of the San Francisco Port Commission, and where the term "San Francisco Harbor Bond Finance Board" or "Bond Finance Board" is used it shall be deemed to mean "Board of Supervisors of the City and County of San Francisco," and where the term "Attorney General of the State of California" is used it shall be deemed to mean "City Attorney," and where the term "State Treasurer" is used it shall be deemed to mean "City Treasurer," and where the term "State Controller" is used it shall be deemed to mean "City Controller." The revenue bonds issued hereunder shall be known as "Revenue Bonds of the Port Commission of San Francisco."



# APPENDIX C

# **ETHICS PROVISIONS\***

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.



# C3.699-10 ADMINISTRATION AND IMPLEMENTATION

The Commission shall have responsibility for the impartial and effective administration and implementation of the provisions of this charter, statutes and ordinances concerning campaign finance, lobbying, conflicts of interest and governmental ethics.

## C3.699-11 DUTIES

The ethics commission shall have the following duties and responsibilities:

- 1. To administer the provisions of the San Francisco Municipal Elections Campaign Contribution Control Ordinance, and Proposition F, adopted by voters at the June 1986 election, which appears as Appendix K to this charter or any successors to these ordinances.
- 2. To receive documents required to be filed pursuant to, and to otherwise administer, the provisions of the city's lobbyist registration ordinance.
- 3. To act as the filing officer and to otherwise receive documents in any instance where the clerk of the board of supervisors, the registrar of voters and, with respect to members of the boards and commissions, department heads would otherwise be authorized to do so pursuant to Chapters 4 and 7 of the California Political Reform Act of 1974 (Government Code sections 81000, et seq.), as amended.
- 4. To audit campaign statements and other relevant documents and investigate alleged violations of state law, this charter and city ordinances relating to campaign finance, governmental ethics and conflicts of interest and to report the findings to the district attorney, city attorney and other appropriate enforcement authorities. Commission investigation of alleged violations of state law shall be conducted only after the commission has provided to the district attorney and city attorney the information set forth in Section 3.699-12 and the district attorney and city attorney notify the commission that no investigation will be pursued.
- 5. To provide assistance to agencies, public officials and candidates in administering the provisions of this charter and other laws relating to campaign finance, conflicts of interest and governmental ethics.
- 6. To make recommendations to the mayor and the board of supervisors concerning (a) campaign finance reform, (b) adoption of and revisions to city ordinances laws related to conflict of interest and lobbying laws and governmental ethics and (c) the submission to the voters of charter amendments relating to campaign finance, conflicts of interest and governmental ethics. The commission shall report to the board of supervisors and mayor annually concerning the effectiveness of such laws. The commission shall transmit its first set of recommendations to the board of supervisors and mayor no later than July 1, 1995.
- 7. To maintain a whistleblower hot line and administer the provisions of the city's improper government activities ordinance.
- 8. To annually adjust any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions.
- 9. To assist departments in developing and maintaining their conflict of interest codes as required by state law.
- 10. To advocate understanding of the charter and city ordinances related to campaign finance, conflicts of interest, lobbying, governmental ethics and open

meetings and public records, and the roles of elected and other public officials, city institutions and the city electoral process.

11. To have full charge and control of its office, to be responsible for its proper administration, subject to the budgetary and fiscal provisions of the charter.

12. To prescribe forms for reports, statements, notices and other documents required by this charter or by ordinances now in effect or hereafter adopted relating to campaign finance, conflicts of interest, lobbying and governmental ethics.

13. To prepare and publish manuals and instructions setting forth methods of bookkeeping, preservation of records to facilitate compliance with and enforcement of the laws relating to campaign finance, conflicts of interest, lobbying and governmental ethics, and explaining applicable duties of persons and committees.

14. To develop an educational program, including but not limited to the

following components:

- (a) Seminars, when deemed appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with city, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government.
- (b) Annual seminars for top-level officials, including elected officers and commissioners, to reinforce the importance of compliance with, and to inform them of any changes in, the law relating to conflicts of interest, lobbying, governmental ethics and open meetings and public records.
- (c) A manual which will include summaries, in simple, non-technical language, of ethics laws and reporting requirements applicable to city officers and employees, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city, state and federal laws governing the ethical conduct of city employees.
- (d) A manual which will include summaries, in simple, non-technical language, of city ordinances related to open meetings and public records, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city ordinances related to open meetings and public records.

# C3.699-12 REQUESTS FOR AND ISSUANCES OF OPINIONS; ADVICE

(a) Any person may request the commission to issue a written opinion with respect to that person's duties under provisions of this charter or any ordinance relating to campaign finance, conflicts of interest, lobbying or governmental ethics. The commission shall, within 21 days, transmit its proposed opinion to the city attorney and district attorney, provided that the commission, or its executive director, can extend this time for good cause. Within ten working days of receipt of the proposed opinion, the city attorney and district attorney shall advise the commission whether they concur in the proposed opinion. If either the city attorney or district attorney do not concur with the proposed opinion, he or she shall inform the commission in writing concerning the basis for disagreement. No person who acts in good faith on an opinion issued by the commission and concurred in by the city attorney and district attorney shall be subject to criminal or civil penalties for so acting,

provided that the material facts are as stated in the opinion request. The commission's opinions shall be public records and may from time to time be published.

- (b) The commission may authorize its staff to issue informal oral advice to any person with respect to that person's duties under provisions of this charter or any ordinance relating to campaign finance, conflicts of interest, lobbying or governmental ethics. Reliance on such oral advice shall not be a defense in any enforcement proceeding.
- (c) Subject to the civil service provisions of this charter, the commission may employ individuals who have graduated from a state accredited law school for the purpose of assisting the commission prepare opinions and providing advice under this section. These employees shall have no authority to provide advice to or represent the city and county or any of its officers or employees.
- (d) Nothing in this section shall be construed to prevent city and county officers and employees from seeking advice from the city attorney concerning conflict of interest and governmental ethics laws.

## C3.699-13 INVESTIGATIONS AND ENFORCEMENT PROCEEDINGS

The commission shall conduct investigations in accordance with this subdivision of alleged violations of this charter and city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics.

(a) Investigations.

If the commission, upon the receipt of a sworn compliant of any person or its own initiative, has reason to believe that a violation of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has occurred, the commission immediately shall forward the complaint or information in its possession regarding the alleged violation to the district attorney and city attorney. Within ten working days, after receipt of the complaint or information, the district attorney and city attorney shall inform the commission in writing regarding whether the district attorney or city attorney has initiated or intends to pursue an investigation of the matter. Until such time as the district attorney and city attorney inform the commission that no investigation will be undertaken, the commission shall refrain from conducting any investigation or otherwise pursuing the matter.

If the district attorney and city attorney notify the commission that they do not intend to pursue an investigation, and the commission, upon the sworn complaint or on its own initiative, determines that there is sufficient cause to conduct an investigation, it shall investigate alleged violations of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics. A complaint filed with the commission shall be investigated only if it identifies the specific alleged violations which form the basis for the complaint and the commission determines that the complaint contains sufficient facts to warrant an investigation.

Within 14 days after receiving notification that neither the district attorney nor city attorney intends to pursue an investigation, the commission shall notify in writing the person who made the complaint of the action, if any, the commission has taken or plans to take on the complaint, together with the reasons for such action or non-action. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

The investigation shall be conducted in a confidential manner. Records of any investigation shall be considered confidential information to the extent permitted by state law. Any member or employee of the commission or other person who, prior to a determination concerning probable cause, discloses information about any preliminary investigation, except as necessary to conduct the investigation, shall be deemed guilty of official misconduct. The unauthorized release of confidential information shall be sufficient grounds for the termination of the employee or removal of the commissioner responsible for such release.

(b) Findings of Probable Cause.

No finding of probable cause to believe that a provision of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have committed the violation is notified of the alleged violation by service of process or registered mail with return receipt requested, is provided with a summary of the evidence, and is informed of his or her right to be present in person and to be represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person committed the violation. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or, if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private to the extent permitted by state law unless the alleged violator files with the commission a written request that the proceeding be public.

- (c) Administrative Orders and Penalties.
- (i) When the commission determines there is probable cause for believing a provision of this charter or city ordinance has been violated, it may hold a public hearing to determine if such a violation has occurred. When the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, it shall issue an order which may require the violator to:
  - (1) Cease and desist the violation;
- (2) File any reports, statements or other documents or information required by law; and/or
- (3) Pay a monetary penalty to the general fund of the city of up to five thousand dollars (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. Penalties that are assessed but uncollected after 60 days shall be referred to the bureau of delinquent revenues for collection.

In addition, with respect to city officers other than those identified in Section 8.107 of this charter, when the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, the commission may recommend to the appointing officer that the officer be removed from office.

When the commission determines that no violation has occurred, it shall publish a declaration so stating.

(d) In addition to any other penalty that may be imposed by law, any person who violates any provision of this charter or of a city ordinance relating to campaign finance, lobbying, conflicts of interest or governmental ethics, or who causes any other

person to violate any such provision, or who aids and abets any other person in such violation, shall be liable under the provisions of this section.

## C3.699-14 COMMISSION FUNDING

The ethics commission may impose fees related to the administration and enforcement of ordinances and provisions of this charter related to campaign finance, lobbying and governmental ethics. The fees shall become effective 30 days after their approval by the commission unless the board of supervisors, by a vote of two-thirds of all of its members, disapproves the fees within this 30 day period.

The commission shall not expend any funds prior to July 1, 1994.

#### C3.699-15 LEGAL ADVISOR

The city attorney shall be the legal advisor of the commission. If the city attorney determines in writing that he or she cannot, consistent with the rules of professional conduct, provide advice sought by the commission, the city attorney may authorize the commission to retain outside counsel to advise the commission.

#### C3.699-16 TRANSFER OF POSITION

Upon the effective date of this section, the civil service commission immediately shall conduct a study to classify a position and determine the proper salary for the ethics commission employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance. Effective July 1, 1994, the mayor and board of supervisors shall transfer from the mayor's office to the ethics commission one position. This transfer will be effected as follows. The mayor and board of supervisors will adopt an ordinance eliminating one position in the mayor's office. The position eliminated shall be the position with the salary that most closely approximates the salary determined by the civil service commission for the employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance. At the same time, the mayor and board of supervisors shall adopt an ordinance creating and funding the position of the ethics commission employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance.

# C8.105 CONFLICT OF INTEREST AND OTHER PROHIBITED PRACTICES

- (a) No officer or employee of the city and county shall become directly or indirectly interested in any contract, franchise, right privilege or sale or lease of property awarded, entered into or authorized by him or her in his or her capacity as an officer or employee, or by an officer or employee under his or her supervision and control, or by a board or commission of which he or she is a member, unless same is devolved upon him or her by law. An officer or employee with such an interest, however acquired, shall become divested of said interest within 60 days or shall resign said office or employment.
- (b) No officer or employee shall give or promise any money or other valuable thing in consideration of his or her nomination, appointment, or election to any city and county office or employment or accept, other than lawful political campaign contributions, any gratuity in money or other valuable thing, either directly or

indirectly, from any subordinate or employee or from any candidate or applicant for a position as employee or subordinate under him or her.

- (c) No officer or employee shall make, participate in making or in any way attempt to use his or her office or employment to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest, as defined by California Government Code Section 87103.
- (d) No officer or employee of the city and county shall wilfully or knowingly disclose any privileged information concerning property, government, or affairs of the city and county, unless a duty to do so is imposed upon said person by law, nor shall that person use any privileged information obtained by him or her by virtue of his or her office or employment to advance the financial or other private interest of himself or herself or others.
- (e) No person who has served as an officer or employee of the city and county shall within a period of two years after termination of such service or employment appear before the board or agency of the city and county of which he or she was a member in order to represent any private interest, provided, however, that said officer or employee may appear before said board for the purpose of representing himself or herself.
- (f) No officer or employee of the city and county shall receive, directly or indirectly, any compensation, reward or gift from any source except compensation from the City and County of San Francisco, or any other governmental agency to which he or she has been duly appointed for any service, advice, assistance or other matter related to the governmental processes of the city and county, except for fees for speeches or published writing.
- (g) The ethics commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to effectuate the purposes and intent of this section. Such rules and regulations may provide for restrictions against activities, employments and enterprises other than those described or mentioned herein when such restrictions are found necessary for the preservation of the honor or integrity of the city and county. Rules and regulations previously adopted or approved by the civil service pursuant to this section shall remain in effect until amended by the ethics commission.

The civil service commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to provide for the efficiency of the city and county civil service.

(h) An officer or employee shall not be deemed to be interested in any transaction described in Subsections (a) or (c) above if he or she has only a remote interest in the transaction and if the fact of such interest is disclosed and noted in the official records of the board, commission or department and thereafter the board, commission or department authorizes, approves, or ratifies the transaction in good faith by a vote

of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest or by his or her immediate superior unless the transaction must be awarded to the highest or lowest responsible bidder as the case may be on a particular day and the vote of such officer or member is necessary to a quorum on that day.

- (1) As used in this article "remote interest" means:
- (A) That of a nonsalaried officer of a nonprofit corporation;
- (B) That of an employee or agent of the party involved in the transaction, if such party has 10 or more other employees and if the officer or employee was an employee or agent of said party for at least three years prior to his or her initially accepting his or her office or employment.

For the purposes of this subsection, time of employment with the party by the officer or employee shall be counted in computing the three-year period specified in this subsection even though such party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by such officer. Time of employment in such case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the party is the same or substantially similar to that which existed before such transfer or change in organization. For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of such party.

- (C) That of a parent in the earnings of his or her minor child for personal services:
  - (D) That of a landlord or tenant of the transacting party;
  - (E) That of an attorney of the transacting party;
- (F) That of a supplier of goods or services when such goods or services had been supplied to the transacting party by the officer or employee for at least five years prior to his or her election or appointment to office or employment;
- (G) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the transaction has the relationship of borrower or depositor, debtor or creditor.
- (2) The provisions of this subsection shall not be applicable to any officer or employee interested in a transaction who influences or attempts to influence another officer or employee to enter into the transaction.
- (i) An officer or employee shall not be deemed to be interested in a transaction pursuant to Subsections (a) and (c) above if his or her interest is:
- (1) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed five percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed five percent of his or her total annual income;
- (2) That of an officer or employee in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duty;
- (3) That of a recipient of public services generally provided by the board, commission or department of which he or she is a member or employee, on the same terms and conditions as if he or she were not a member or employee of the board, commission or department.

- (4) That of a landlord or tenant of the transacting party if such party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such transaction is the property in which such officer or employee has such interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning and subject to the provisions of Subsection (g).
- (5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.
- (6) That of a spouse of an officer or employee in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.
- (7) That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed at the time of the first consideration of the transaction and provided further that such interest is noted in its official records.
- (8) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of a borrower or depositor, debtor or creditor.
- (j) No member of any board or commission of the city and county shall knowingly vote on or in any way attempt to influence the outcome of governmental action on any measure or question involving his or her own character or conduct, his or her right as a member, or his or her appointment to any office, position, or employment, wherein the said member's financial interest is immediate, particular, and distinct from the public interest. The word "knowingly" as used in this paragraph shall mean actual or constructive knowledge of the existence of the interest which would disqualify the vote under the provisions of this section.

If under any provision of this charter or of any ordinance, resolution, rule or regulation, action on any measure or question must be taken on a particular day and such action cannot be taken by a qualified voting quorum of the board or commission on that day by reason for the disqualification from voting under the provisions of this section, said action may be postponed until, but not later than, there are sufficient qualified members present to vote and take action on said measure or question. The term "a qualified voting quorum" as used in this paragraph shall mean the presence of a sufficient number of qualified voting members of the board or commission to take either affirmative or negative action on the measure or question before the board or commission.

- (k) The city attorney, the district attorney of the City and County of San Francisco or any resident or group of residents of the City and County of San Francisco may bring a suit in the superior court to compel compliance with the provisions of this section.
- (1) The provisions of Section 8.105 shall not apply to any member serving as a representative of any profession, trade, business, union or association on any board,

commission or other body heretofore or hereafter created by an ordinance of the City and County of San Francisco which requires that the membership consists in whole or in part of representatives of specific professions, trades, businesses, unions or associations. Conflicts of interest and prohibited practices of such members and the penalties therefor shall be as prescribed by the ordinance creating such board, commission or other body or by an amendment thereto.

- (m) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon a final judgment of conviction of same, shall be removed from office or in the alternative shall be subject to a penalty of not more than one year in jail and/or fine of not more than \$10,000, as well as removal.
- (n) Every contract made in violation of any of the provisions of Section 8.105 may be avoided at the insistance of any party except the officer or employee interested therein. No such contract may be avoided because of the interest of an officer or employee therein unless such contract is made in the official capacity of such officer or employee, or by a board or body of which he or she is a member.



# APPENDIX D

# **BUILDING INSPECTION PROVISIONS\***

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.



# **D3.750 ESTABLISHMENT**

Recognizing that the provision of safe and sanitary buildings is essential to the welfare of the inhabitants of the City and County of San Francisco, there is hereby established a Department of Building Inspection which shall consist of a Building Inspection Commission, a Director of Building Inspection, and such employees as may be necessary to carry out the functions and duties of said department. The commission shall organize, reorganize, and manage the department. When the commission assumes management of the department, the Bureau of Building Inspection shall cease to exist. Unless modified or repealed by the commission, all orders, regulations, rules, and policies of the Bureau of Building Inspection will remain in effect. Except as limited below, positions in the Bureau of Building Inspection of the Department of Public Works legally authorized on the date the commission assumes management of the department shall be continued, and incumbents therein legally appointed thereto shall be continued as officers and employees of the department under the conditions governing their respective appointments.

# D3.750-1 COMMISSION; COMPOSITION

The Department of Building Inspection shall be under the management of a Building Inspection Commission consisting of seven members. Four members shall be appointed by the mayor for a term of two years; provided that the respective terms of office of those first appointed shall be as follows: two for one year, and two for two years from the effective date of this section. Three members shall be appointed by the President of the Board of Supervisors for a term of two years; provided that the respective terms of office of those first appointed shall be as follows: three for one year from the effective date of this section. The initial appointments shall be made no later than fifteen days after the effective date of this section, and the commission's management shall begin no later than forty-five days after the effective date of this section. Vacancies occurring in the offices of appointive members, either during or at expiration of term, shall be filled by the electoral office that made the appointment. The four mayoral appointments shall be comprised of a structural engineer, a licensed architect, a residential builder, and a representative of a community-based non-profit housing development corporation. The three Supervisorial appointments shall be comprised of a residential tenant, a residential landlord, and a member of the general public. The members of the commission shall serve without compensation.

Pursuant to Government Code Section 87103, individuals appointed to the commission under this section are intended to represent and further the interest of the particular industries, trades, or professions specified herein. Accordingly, it is found that for purposes of persons who hold such office, the specified industries, trades, or professions are tantamount to and constitute the public generally within the meaning of Government Code Section 87103.

# D3.750-2 DIRECTOR OF BUILDING INSPECTION; OTHER EXECUTIVES

The Director of Building Inspection shall be the department head and appointing officer of the Department of Building Inspection and shall be qualified by either technical training or administrative experience in the enforcement of building and other construction codes. The Director shall serve as the building official of the city and county and, upon his or her appointment, shall assume all of the powers and

duties of the Director of Public Works with respect to the administration and enforcement of the building code and other construction codes. The Director shall have all the powers provided for department heads as set forth in Section 3.501 of this Charter. The Director shall be appointed by the commission and hold office at its pleasure; the person who has civil service status in the position of Superintendent of the Bureau of Building Inspection on the date the commission assumes management of the department shall serve as interim Director pending the appointment of a Director by the commission. Subject to the approval of the commission, and the budgetary and fiscal provisions of this Charter, the Director shall have the power to appoint and remove, at his or her pleasure, up to one deputy superintendent and no more than two assistant superintendents, all of whom shall be exempt from the civil service provisions of this Charter.

The Director shall not serve as an officer or member of any standing or ad hoc committee of any building industry or code development or enforcement organization or public agency other than the City and County of San Francisco without the prior approval of the commission.

## D3.750-3 SECRETARY OF COMMISSION; CONSULTANTS

The Building Inspection Commission may appoint a secretary, which appointment shall not be subject to the civil service provisions of this Charter. Subject to the provisions of Section 6.302, 6.312 and 6.313 of this Charter, the commission may also contract with engineers or other consultants for such services as it may require.

## D3.750-4 POWERS AND DUTIES

The Building Inspection Commission shall organize, reorganize, and manage the Department of Building Inspection which shall have responsibility for the enforcement, administration, and interpretation of the city's Housing, Building, Mechanical, Electrical, and Plumbing Codes, except where this Charter specifically grants that power to another department. The Central Permit Bureau, formerly within the Bureau of Building Inspection, shall also be managed by the commission.

The commission shall inspect and regulate additions, alterations, and repairs in all buildings and structures covered by the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing Codes. Nothing in this chapter shall diminish or alter the jurisdiction of the Planning Department over changes of use or occupancy under the Planning Code. The commission shall ensure the provision of minimum standards to safeguard life or limb, health, property, and the public welfare by regulating and controlling the safe use of such buildings and structures. The commission shall ensure the vigorous enforcement of city laws mandating the provision of heat and hot water to residential tenants. The commission shall also ensure the enforcement of local, state, and federal disability access laws. The commission shall be a policy-making and supervisory body with all the powers provided for in Section 3.500 of this Charter.

The commission shall constitute the Abatement Appeals Board, and shall assume all powers granted to this entity under this Charter and the San Francisco Building Code. The commission shall appoint and may remove at its pleasure members of the Board of Examiners, Access Appeals Board, and Code Advisory Committee, all of which shall have the powers and duties to the extent set forth in the San Francisco Building Code.

The commission shall have the power to hold hearings and hear appeals on all decisions made by the Department of Public Works regarding permits under one or more of the codes enumerated in this section and on sidewalk or encroachment permits. The commission may reverse, affirm or modify determinations made by the Department of Public Works, Water Department, or Department of Building Inspection on all permits required for a final certificate of completion. The commission's jurisdiction under this section, however, shall not extend to permits appealable to the Planning Commission or Board of Permit Appeals. Departmental decisions on permits subject to commission review shall be made within the time mandates of the state Permit Streamlining Act. Appeals of decisions must be filed with the commission within fifteen days of the challenged determination. The commission shall act on the appeal within a reasonable time. The commission's action shall be final.

# D3.750-5 ACTIONS OF COMMISSION

The commission shall adopt rules and regulations consistent with fulfilling its responsibilities under this Charter. The commission shall also adopt rules and regulations governing commission meetings and also adopt requirements for notification and mailing for commission business. The commission shall hold public hearings on all proposed amendments to the San Francisco Building Code, Electrical Code, Housing Code, Plumbing Code, and Mechanical Code.

The Building Inspection Commission shall have the sole authority to contract for the publication of the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing Codes, and any amendments thereto. Other provisions of this Charter and the Administrative Code notwithstanding, the selection of a publisher shall be based on the lowest retail cost to the public of a complete set of these codes.

# D3.750-6 APPROVAL OF BUDGETS

The commission shall initially be funded out of the 1994-95 budget approved for the Bureau of Building Inspection, and subsequent funding shall come from the budget of the Department of Building Inspection.

The Director of Building Inspection shall submit a proposed department budget for each upcoming fiscal year for approval by the commission. The proposed budget shall be compiled in such detail as shall be required on uniform blanks furnished by the controller. The Building Inspection Commission must hold at least two public hearings on the respective budget proposal.

The final budget for the Department of Building Inspection must be approved by a favorable vote of at least five commissioners.

# D3.750-7 TECHNICAL BOARDS AND ADVISORY COMMITTEES

The technical boards and advisory committees established in the Building Code by ordinance of the Board of Supervisors shall continue in existence as boards and committees within the Department of Building Inspection. Members of the boards and committees shall be appointed by the commission. Incumbents legally appointed to these respective bodies prior to the commission's assumption of management of the department shall serve at the pleasure of the commission.

#### D3.750-8 **SEVERABILITY**

If any provision of this section, or its application to any person or circumstance, shall be held invalid or unenforceable, the remainder of this section and its applications shall not be affected; every provision of this section is intended to be severable.

The Clerk of the Board of Supervisors is hereby authorized to recodify this

amendment as may be necessary.





# ABATEMENT APPEALS BOARD

#### INDEX

#### \_ A \_

ABATEMENT APPEALS BOARD
Designated, powers, duties generally Appx.
D, D3.750-4
Severability of provisions Appx. D,
D3.750-8

# ACCESS APPEALS BOARD

Appointment, powers, duties generally Appx. D, D3.750-4 Severability of provisions Appx. D, D3.750-8

# ADMINISTRATIVE SERVICES DEPARTMENT Composition, powers, duties 4.129

ADMINISTRATIVE SERVICES DIRECTOR Powers, duties 4.129

ADMINISTRATOR, AUTHORITY
Appointment, powers, duties 3.104

ADULT PROBATION
Generally 7.101

# ADULT PROBATION OFFICER, CHIEF Appointment, powers, duties 7.101

#### **AGENCIES**

Transition provisions
changes in offices, positions 18.105
functions, powers, duties transfer 18.104
rules, regulations review, adoption
18.107

# AIRPORT COMMISSION

Composition, appointment, powers, duties 4.115

#### AIRPORT POLICE

Wages, benefits dispute
applicability of provisions Appx. A,
A8.590-2
good faith negotiation, obligation Appx.
A, A8.590-4
impasse, resolution procedures Appx. A,
A8.590-5

policy, declaration Appx. A, A8.590-1 retiree benefits adjustment, restrictions Appx. A, A8.590-6 strike disciplinary actions Appx. A, A8.345, A8.346 policy Appx. A, A8.590-1 prohibited, effect Appx. A, A8.590-3 tax benefits, preservation Appx. A, A8.590-7

# AIRPORT REVENUE FUND

Established, funding, use 16.104

#### **APPEALS**

Board of appeals 4.106

#### APPROPRIATIONS

Cultural, educational, recreational appropriations 16.106

Ordinance amendments, scope final ordinance 9.105

proposed ordinance 9.103 procedure generally 9.100

proposed

amendments, scope 9.103 procedure generally 9.101

Surplus, use 9.113

Transfers, scope generally 9.105

unused, unencumbered appropriations
9.113

Veto, reinstatement, scope, procedure 9.104

# ARTS COMMISSION

Composition, appointment, powers, duties 5.103

# ASIAN ART COMMISSION

Composition, appointment, powers, duties 5.104

#### ASIAN ART MUSEUM

Status, transition provisions 18.111

# ASSESSOR-RECORDER

Clerk-recorder, county, office merged 4.131 Elective officer, designated 6.100 Powers, duties 6.101

# ATTORNEY, CITY

#### Department customer service plan ATTORNEY, CITY requirements waiver authority 16.120 Elective officer, designated, qualifications Election 6.100 procedure generally 13.110 Ethics commission legal advisor, designated, recall, procedure 14.103 duties Appx. C, C3.699-15 Elections task force convening, funding, Port commission legal advisor, designated, powers, duties generally Appx. B, B3.585 members appointment 13.110 Financial audit firm selection 2.115 Powers, duties 6.102 Former supervisors, employment restrictions AUDIT COMMITTEE Established, powers, duties 9.117 Meetings generally 2.103 public's right to know, scope 2.108 AUDITS quorum 2.104 Financial audits firm, selection 2.115 Officers, appointment, duties 2.117 Generally 9.117 Officials, city, county, fidelity bonds, requirements determination 2.212 -- B ---Ordinances, resolutions emergency ordinances 2.107 BENEFITS required when, procedure generally 2.105 See DOMESTIC PARTNERSHIP (Appx. A, vetoed, enactment when 2.106 A8.500-2) Paratransit fees reduction authority 4.133 FIRE DEPARTMENT RETIREMENT Policy declarations, legislative initiative, SYSTEM (Appx. A, A8.560) authority 2.113 HEALTH SERVICE SYSTEM (Appx. President, election, duties generally 2.116 A. A8.420) Ouorum 2.104 POLICE DEPARTMENT Rates, fees, charges approval 2.109 RETIREMENT SYSTEM (Appx. A, Real property sale, lease contract approval A8.540) when 9.118 RETIREMENT SYSTEM (Appx. A, Recall, procedure generally 14.103 A8.500) Salary 2.100 Supervisorial districts, purpose, BOARD OF APPEALS establishment, designation, redistricting, Composition, appointment, powers, duties duties, regulations generally 13.110 4.106 Taxi commission fees establishment 4.133 Term of office 2,101, 13,110 BOARD OF EDUCATION Transit routes abandonment authority 2.111 Health service system contributions, Vacancies, filling 2.102 obligations generally Appx. A, A8.428 BOARDS, COMMISSIONS BOARD OF EXAMINERS Abatement appeals board Appx. D, Appointment, powers, duties generally Appx. D, D3.750-4 Access appeals board Appx. D, D3.750-4 Severability of provisions Appx. D, Airport commission 4.115 D3.750-8 Applicability of provisions 4.100 Arts commission 5.103 BOARD OF SUPERVISORS Asian art commission 5.104 Administrative matters, non-interference Board of appeals 4,106 2.114 Board of examiners Appx. D, D3.750-4 Composition 2.100 Building inspection commission 4.121, Contract approval when 9.118 Appx. D, D3.750

BONDS, CITY, COUNTY

General obligation bonds 9.106

Commission on the environment 4.118	Refunding bonds 9.109
Commission on the status of women 4.119	Revenue bonds
Community college district governing board	port commission revenue bonds 9.112,
8.101	Appx. B, B7.305
Composition	regulations generally, election
See also Specific Board, Commission	requirements 9.107
generally 4.101	Utilities, public utilities, election
Contracts, authority, limitations 9.118	requirements 9.110
Ethics commission 15.100	
Fine Arts Museums of San Francisco Board	BUDGET
of Trustees 5.105	Building inspection commission Appx. D,
Fire commission 4.108	D3.750-6
Health commission 4.110	Departmental budgets
Health service board 12.200, Appx. A,	building inspection department Appx. D,
A8.427	D3.750-6
Human rights commission 4.107	commitments, scope 9.115
Human services commission 4.111	mission-driven, regulations 9.114
Juvenile probation commission 7.102	savings, revenue gains, regulations 9.116
Law library board of trustees 8.103	Harbor Appx. B, B3.584
Library commission 8.102	Mission-driven, phase-in, transition
Parking and traffic commission 4.116	provisions 18.113
Planning commission 4.105	Ordinance
Police commission 4.109	procedure generally 9.100
Port commission 4.114, Appx. B, B3.581	proposed
Powers, duties	amendments, scope 9.103
See also Specific Board, Commission	procedure generally 9.101
generally 4.102	revenue estimates certification 9.102
Procedural rules, regulations 4.104	10.0110 0011111010 001111011011 71102
Public transportation commission 4.117	BUDGET ANALYST
Public utilities commission 4.112	Appointment, duties 2.117
Recreation and park commission 4.113	representation, cause and
Reorganization 4.132	BUILDING
Reports, annual 4.013	Technical codes
Retirement board 12.100	amendment, publication, scope,
Taxi commission 4.133	regulations Appx. D, D3.750-5
Technical boards Appx. D, D3.6650-7	designated, enforcement, scope, authority
Terms, transition provisions 18.114	Appx. D, D3.750-4
Transition provisions	severability of provisions Appx. D,
changes in offices, positions 18.105	D3.750-8
functions, powers, duties transfer 18.104	technical boards, advisory committees,
rules, regulations review, adoption	continuance Appx. D, D3.750-7
18.107	continuance Appx. D, D3.730-7
terms 18.114	BUILDING INSPECTION
Unified school district board of education	Provisions generally 16.119
8.100	1 tovisions generally 10.117
War Memorial and Performing Arts Center	BUILDING INSPECTION BUREAU
governing board 5.106	Existing, replacement by building inspection
Youth commission 4.122	department, effect Appx. D, D3.750
	Severability of provisions Appx. D,
	D3.750-8

Civil service commission 10.100 Commission on aging 4.120

# BUILDING INSPECTION COMMISSION

# BUILDING INSPECTION COMMISSION Building inspection department, duties generally Appx. D, D3.750 Compensation Appx. D, D3.750-1 Composition, appointment Appx. D, D3.750-1 Decisions, appeals procedure Appx. D, D3.750-4 Funding Appx. D, D3.750-6 Hearings, scope, duties Appx. D, D3.750-5 Powers, duties generally 4.121, Appx. D, D3.750-4 Procedural rules Appx. D, D3.750-5 Qualifications Appx. D, D3.750-1 Secretary, consultants Appx. D, D3.750-3 Severability of provisions Appx. D,

# BUILDING INSPECTION DEPARTMENT

Appointments, authority designated Appx. D. D3.750-2

Budget Appx. D, D3.750-6

Term Appx. D, D3.750-1

D3.750-8

Established, composition, administration Appx. D, D3.750

Management, authority designated Appx. D, D3.750-1

Severability of provisions Appx. D, D3.750-8

Technical boards, advisory committees Appx. D, D3.750-7

# BUILDING INSPECTION DIRECTOR Appointment, qualifications, powers, duties

generally Appx. D, D3.750-2 Severability of provisions Appx. D, D3.750-8

-- C --

#### CABLE CARS

Lines designated, maintenance, operation 16,100

CALIFORNIA ACADEMY OF SCIENCES
Generally 16.105

CASH RESERVE FUND
Established, funding, use 9.113

#### CENTRAL PERMIT BUREAU

Management, scope, authority Appx. D, D3.750-4

Severability of provisions Appx. D, D3.750-8

# **CHARGES**

Approval, procedure, authority 2.109

CHARITABLE TRUST DEPARTMENTS Composition, powers, duties 5.101

#### CHARTER

1932 Charter sections transferred, enacted 18.103

Appendix A, employment provisions 16.116 Appendix B, port agreements 16.117 Appendix C, ethics provisions 16.118 Appendix D, building inspection provisions

Contract obligations not impaired 18.102 Definitions Article XVII

Headings, captions not to govern 16.115 Operative date, effect on existing law 18.101 Severability 16.113

Transition provisions

1932 Charter sections transferred, enacted

Asian Art Museum status 18.111 boards, commissions, terms 18.114 budget, mission-driven, phase-in 18.113 charter preparation, indexing 18.112 contract obligations not impaired 18.102 effective date, expiration date 18.100 fidelity bond requirements 2.212 health service system Appx. A, A8.432 incumbent officers, employees, status 18.108

initiative ordinances designated, effect 18.103

offices, agencies, departments

changes in offices, positions 18.105 functions, powers, duties transfer 18.104

operative date, effect 18.101 rules, regulations review, adoption 18.107

# CHILDREN'S FUND

Established, funding, use 16.108

# CHILDREN'S SERVICES Generally 16.108

# CITY, COUNTY

Harbor, transfer of jurisdiction to city, county, authority generally Appx. B, B3.582

Health service system contributions, obligations generally Appx. A, A8.428 Name, boundaries 1.100

Retirement system contributions members of fire department on, after July

November 2, 1976 Appx. A,

1, 1949 Appx. A, A8.579 members of fire department on, after July 1, 1975 Appx. A, A8.585-11 members of fire department on, after

A8.588-11

members of police department on, after July 1, 1945 Appx. A, A8.555 members of police department on, after July 1, 1975 Appx. A, A8.559-11 members of police department on, after November 2, 1976 Appx. A, A8.586-11

miscellaneous officers, employees, employment after November 1, 1976 Appx. A, A8.584-8 requirements generally Appx. A, A8.500,

Rights, powers generally 1.101

# CIVIL SERVICE COMMISSION

Composition, appointment, term, meetings 10.100

Powers, duties 10.101

A8.525

# CIVIL SERVICE MERIT SYSTEM See also RETIREMENT SYSTEM (Appx. A,

See also RETIREMENT SYSTEM (Appx. A, A8.500)

Administration, scope, authority civil service commission 10.101 human resources department 10.102 human resources director 101.03 Appointments

provisional appointments generally 10.105 transition provisions 18.110 regulations generally 10.104 Excluded positions
designated 10.104
transition provisions 18.108, 18.109
Transition provisions
excluded positions 18.108, 18.109
provisional appointments 18.110

# CLERK, COUNTY

Powers, duties 4.131

# CLERK OF THE BOARD Appointment, duties 2.117

CLERK-RECORDER, COUNTY

# Office merged into office of Assessor-recorder 4.131

# CODE ADVISORY COMMITTEE

Appointment, powers, duties generally Appx. D, D3.750-4 Severability of provisions Appx. D, D3.750-8

# COMMISSION ON AGING

Composition, appointment, powers, duties 4.120

# COMMISSION ON THE ENVIRONMENT Composition, appointment, powers, duties 4.118

# COMMISSION ON THE STATUS OF WOMEN

Composition, appointment, powers, duties 4.119

# COMMISSIONS

See Specific Commission BOARDS, COMMISSIONS (4.101)

# COMMITTEES

Audit committee 9.117 Code advisory committee Appx. D, D3.750-4

Park and open space advisory committee 16.107

Personnel special strike committee Appx. A, A8.346

Technical advisory committees Appx. D, D3.6650-7

# COMMUNITY COLLEGE DISTRICT

# COMMUNITY COLLEGE DISTRICT

Generally 8.101

Teachers, retirement

See RETIREMENT SYSTEM (Appx. A, A8.506-1, A8.512)

# COMMUNITY COLLEGE DISTRICT BOARD OF EDUCATION

Health service system contributions, obligations generally Appx. A, A8.428

# COMMUNITY COLLEGE DISTRICT GOVERNING BOARD

Composition, election, term, compensation 8.101

# COMPENSATION

See PERSONNEL (Appx. A, A8.400)

# CONFLICT OF INTEREST

Generally 15.103, Appx. C, C8.105

#### CONTRACTS

Authority, limitations 9.118

Charter adoption not to impair obligations 18.102

Public works, improvements, working conditions, regulations Appx. A, A7.204

#### CONTROLLER

Appointment, powers, duties 3.105

#### COUNTY

See CITY, COUNTY (1.100)

#### CULTURAL APPROPRIATIONS

Scope, use 16.106

# CUSTOMER SERVICE PLAN

Departments, city, county, requirements 16.120

— D —

# **DEFINITIONS**

See also Specific Subject Generally Article XVII

#### DEPARTMENTS

Administrative services department 4.129 Applicability of provisions 4.100

Arts and culture departments

arts commission 5.103

Asian art commission 5.104

charitable trust departments 5.101

Fine Arts Museums of San Francisco 5.105

generally 5.100

museums, city 5.102

War Memorial and Performing Arts

Center governing board 5.106

#### **Budgets**

building inspection department Appx. D,

D3.750-6

commitments, scope 9.115

mission-driven, regulations 9.114

savings, revenue gains, regulations 9.116 Building inspection department Appx. D,

D3.750

Composition, duties

See also Specific Department

generally 4.126

Contracts, authority, limitations 9.118

Customer service plan, requirements 16.120

Elections department 13.104

Environment department 4.118

Ethics department 15.101

Fire department 4.128

Health department 4.110

Human resources department 10.102

Juvenile probation department 7.102

Library department 8.102

Planning department 4.105

Police department 4.127

Public works departments 4.130

Recreation and park department 4.113

Reorganization 4.132

Transition provisions

changes in offices, positions 18.105

functions, powers, duties transfer 18.104 rules, regulations review, adoption

18.107

# DISTRICT ATTORNEY

Elective officer, designated, qualifications

Powers, duties 6.103

# DISTRICTS

Supervisorial districts, purpose, establishment, designation, redistricting,

regulations generally 13.110

DOCUMENTS, CITY, COUNTY	Policy declarations, submittal to voters, effect
Public's right to know, scope 2.108	2.113
Publication, access, regulations 16.112	Recall
	petition
DOMESTIC PARTNERSHIP	requirements generally 14.103
Personnel, surviving partner, retirement	signature withdrawal, procedure
benefits eligibility Appx. A, A8.500-2	14.104
	procedure generally 14.103
— E —	Referendum
	petition
EDUCATIONAL APPROPRIATIONS	requirements generally 14.102
Scope, use 16.106	signature withdrawal, procedure
	14.104
ELECTIONS	procedure generally 14.102
Administration, scope, authority 13.104	voter powers 14.100
Board of supervisors	Results, determination 13.108
See also Specific Subject	State laws, applicability 13.100
procedure generally 13.110	Supervisorial districts, purpose,
recall, procedure 13.103	establishment, designation, redistricting,
Bonds, city, county	regulations generally 13.110
revenue bonds 9.107	Unified school district board of education
utilities, public utilities bonds 9.110	8.100
Campaign financing, reports 15.107	Voters' pamphlet 13.107
Candidates	
campaign financing, reports 15.107	ELECTIONS DEPARTMENT
filing fees 13.109	Composition, powers, duties 13.104
nomination, procedure 13.105	•
qualifications 13.106	ELECTIONS DIRECTOR
Code, adoption 13.100	Appointment, powers, duties 13.104
Community college district governing board	Elections task force members appointment,
8.101	ex officio member 13.110
Elected officers, term	Supervisorial districts, report duties 13.110
board of supervisors 2.101, 13.110	•
generally 13.101	ELECTIONS TASK FORCE
Elective officers	Convening, funding, composition,
board of supervisors 13.110	appointment, supervisorial districts
designated 6.100	redistricting duties 13.110
Filing fees 13.109	-
Generally 13.101	EMERGENCY
Initiative	Declaration, effect 3.100
petition	Emergency ordinances 2.107
requirements generally 14.101	Funds allocation when, purpose, authority
signature withdrawal, procedure	designated Appx. A, A8.406
14.104	Personnel, compensation deductions during
procedure generally 14.101	Appx. A, A8.406
voter powers 14.100	••
Municipal elections	EMPLOYEE, CITY, COUNTY
generally 13.101	See PERSONNEL (Appx. A, A8.329)
runoff elections 13.102	RETIREMENT SYSTEM (Appx. A,
special elections 13.103	A8.500)

# EMPLOYEE-EMPLOYER RELATIONS SYSTEM

EMPLOYEE-EMPLOYER RELATIONS SYSTEM	powers, duties generally Appx. C, C3.699-11
Employee relations office 11.101	promulgation Appx. C, C3.699-9
Generally 11.100	Executive director, appointment,
Conorumy 111100	qualifications, powers, duties 15.101
EMPLOYEE RELATIONS OFFICE	Funding, fees Appx. C, C3.699-14
Powers, duties 11.101	Improper government activities ordinance
	administration, enforcement employee,
ENVIRONMENT DEPARTMENT	position created, powers, duties Appx. C,
Powers, duties 4.118	C3.699-16
ETHICS	Legal advisor designated, authority Appx. C3.699-15
Administration, scope, authority	Powers, duties generally Appx. C,
ethics commission 15.100	C3.699-11
ethics commission executive director	
15.101	ETHICS DEPARTMENT
Campaign financing, reports 15.107	Composition, powers, duties 15.101
Conflict of interest 15.103, Appx. C, C8.105	
Dual office holding, effect 15.106	EXECUTIVE BRANCH
Former mayor, supervisors, employment	Composition generally 4.100, 4.101
restrictions 15.108	Powers, duties generally 4.102
Improper government activities ordinance	Reorganization 4.132
administration, enforcement employee,	-
position created, powers, duties Appx. C,	— F —
C3.699-16	
Official misconduct	FEES
penalties generally 15.104	Approval, procedure, authority 2.109
suspension, removal when, effect 15.105	Election filing fees 13.109
Opinions, advice, procedure, authority Appx.	Ethics rules, regulations, administration,
C, C3.699-12	implementation fees Appx. C, C3.699-14
Provisions generally 16.118	Law library 8.103
Rules, regulations	Municipal court 7.100
administration, implementation	Superior court 7.100
authority Appx. C, C3.699-10	
fees Appx. C, C3.699-14	FINANCES
scope, procedures Appx. C,	Administration, scope, authority 3.105
C3.699-11	Appropriations
generally 15.102	cultural, educational, recreational
violations, investigation, procedure,	appropriations 16.106
enforcement remedies Appx. C,	surplus, use 9.113
C3.699-13	transfers, scope
	generally 9.105
ETHICS COMMISSION	unused, unencumbered appropriation
Composition, appointment, term, powers,	9.113
duties 15.100	veto, reinstatement, scope, procedure
Ethics rules, regulations	9.104
administration, implementation Appx. C,	Appropriations ordinance
C3.699-10	amendments, scope 9.103
opinions, advice, authority, duties Appx.	final ordinance 9.105
C. C3.699-12	proposed ordinance 9.103

procedure generally 9.100	FINANCIAL INTEREST
proposed, procedure generally 9.101  Audits	Conflict of interest provisions Appx. C, C8.105
financial audits firm, selection 2.115	
generally 9.117	FINE ARTS MUSEUMS OF SAN
Bonds, city, county	FRANCISCO
general obligation bonds 9.106	Composition, powers, duties 5.105
refunding bonds 9.109	
revenue bonds	FINE ARTS MUSEUMS OF SAN
port commission revenue bonds 9.112	FRANCISCO BOARD OF TRUSTEES
regulations generally, election	Composition, appointment, powers, duties
requirements 9.107	5.105
utilities, public utilities, election	
requirements 9.110	FIRE CHIEF
Budget ordinance	Powers, duties 4.128
amendments, scope 9.103	
procedure generally 9.100	FIRE COMMISSION
proposed	Composition, appointment 4.108
procedure generally 9.101	
revenue estimates certification 9.102	FIRE DEPARTMENT
Budgets, departmental	Composition, powers, duties 4.128
commitments, scope 9.115	Disciplinary actions
mission-driven, regulations 9.114	dismissal, uniformed ranks Appx. A,
savings, revenue gains, regulations 9.116	A8.343
Cash reserves, regulations 9.113	striking employees, uniformed ranks
Contracts, authority, limitations 9.118	Appx. A, A8.345
Emergency, allocations when Appx. A,	suspension, uniformed ranks Appx. A,
A8.406	A8.343
Funds	uniformed ranks
airport revenue fund 16.104	actions designated, procedures Appx.
cash reserve fund 9.113	A, A8.343
children's fund 16.108	exoneration of charges, effect Appx.
emergency, allocations when Appx. A,	A, A8.344
A8.406	striking employees Appx. A, A8.345
health service fund 12.203	Hours, tours of duty Appx. A, A8.452
health service system fund Appx. A,	Retirement
A8.428	See FIRE DEPARTMENT
law library fund 8.103	RETIREMENT SYSTEM (Appx.
library preservation fund 16.109	A, A8.560)
park and open space fund 16.107	RETIREMENT SYSTEM (Appx. A,
public transit support revenue funds	A8.500)
16.110	Strike
retirement fund 12.103	disciplinary actions Appx. A, A8.345,
utilities, public utilities funds 16.103	A8.346
Harbor Appx. B, B3.584	policy Appx. A, A8.590-1
Indebtedness, regulations generally 9.111	prohibited, effect Appx. A, A8.590-3
Lease financing, agreements, regulations	Wages, benefits dispute
9.108	applicability of provisions Appx. A,
Taxi commission fees 4.133	A8.590-2
	good faith negotiation, obligation Appx.
	A, A8.590-4

# FIRE DEPARTMENT

```
impasse, resolution procedures Appx. A,
    A8.590-5
  policy, declaration Appx. A, A8.590-1
  retiree benefits adjustment, restrictions
    Appx. A, A8.590-6
  strike
      disciplinary actions Appx. A, A8.345,
      policy Appx. A, A8.590-1
      prohibited, effect Appx. A, A8.590-3
   tax benefits, preservation Appx. A,
    A8.590-7
Workmen's compensation
   eligibility, effect Appx. A, A8.515,
     A8.575, A8.585-7, A8.588-7
   retirement allowance adjustments Appx.
     A, A8.574, A8.585-7, A8.588-7
```

TRE DEPARTMENT RETIREMENT SYSTEM See also RETIREMENT SYSTEM (Appx. A,	employment restrictions during retirement Appx. A, A8.581
A8.500)	incapacitation retirement Appx. A, A8.571
Allowance adjustments	refunds, redeposits when Appx. A,
generally, applicability Appx. A, A8.574	A8.577
members of department on, after July 1, 1949	regulations generally Appx. A, A8.568
allowance first payable prior to July 1,	right to retire, requirements Appx. A, A8.580
1975 Appx. A, A8.582 generally Appx. A, A8.574	service, credits, computation Appx. A,
workmen's compensation benefits	A8.578
Appx. A, A8.575	service retirement Appx. A, A8.570
members of department on, after July 1, 1975	surviving dependents, payments, designation Appx. A, A8.573
generally, applicability Appx. A, A8.574, A8.585-6	Members of department on, after July 1, 1975
workmen's compensation benefits	allowance adjustments
Appx. A, A8.585-7	generally, applicability Appx. A,
Applicability, regulations generally	A8.574, A8.585-6
dependent of department member killed	workmen's compensation benefits
in line of duty Appx. A, A8.561	Appx. A, A8.585-7
members of department after January 8,	applicability, regulations generally Appx.
1932 and prior to July 1, 1949 Appx.	A, A8.585
A, A8.567	Charter Section Appx. A, A8.588
members of department before January 1,	provisions, right to transfer to,
1900 Appx. A, A8.560	designated Appx. A, A8.585-14
members of department on, after July 1,	contribution requirements Appx. A, A8.585-11
1949 Appx. A, A8.568	death allowance Appx. A, A8.585-4
members of department on, after July 1,	death benefit Appx. A, A8.585-8
1975 Appx. A, A8.585	definitions Appx. A, A8.585-1
members of department on January 8,	employment restrictions during retirement
1932 Appx. A, A8.565 retired members, beneficiaries receiving	Appx. A, A8.585-13
pension on January 8, 1932 Appx. A,	incapacitation retirement Appx. A,
A8.566	A8.585-3
underwriters' fire patrol member on	refunds, redeposits when Appx. A,
February 1, 1970 Appx. A, A8.562	A8.585-9
Contributions Appx. A, A8.579, A8.585-11,	regulations generally Appx. A, A8.585
A8.588-11	right to retire, requirements Appx. A,
Killed in line of duty, effect Appx. A,	A8.585-12
A8.561	service, credits, computation Appx. A,
Members of department on, after July 1,	A8.585-10
1949	service retirement Appx. A, A8.585-2
allowance adjustments	surviving dependents, payments Appx.
allowance first payable prior to July 1,	A, A8.585-5
1975 Appx. A, A8.582	vesting, regulations Appx. A, A8.585-15 Members of department on, after November
generally Appx. A, A8.574	2. 1976
workmen's compensation benefits	allowance adjustments
Appx. A, A8.575	generally, applicability Appx. A,
applicability, regulations generally Appx.	A8.574, A8.588-6
A, A8.568	workmen's compensation benefits
contribution requirements Appx. A, A8.579	A8.588-7
death allowance Appx. A, A8.572	applicability, regulations generally Appx.
death benefit Appx. A, A8.576	A, A8.588
definitions Appx. A, A8.569	

# FIRE DEPARTMENT RETIREMENT SYSTEM

conflicting provisions, effect Appx. A,

contribution requirements Appx. A,

A8.588-14

Airport revenue fund 16.104

Emergency, allocations when Appx. A,

Cash reserve fund 9.113

Children's fund 16.108

A8.406

Law library fund 8.103 A8.588-11 Library preservation fund 16.109 death allowance Appx. A, A8.588-4 Park and open space fund 16.107 death benefit Appx. A, A8.588-8 Public transit support revenue funds 16.110 definitions Appx. A, A8.588-1 employment restrictions during retirement Retirement fund 12.103 Utilities, public utilities funds 16.103 A8.588-13 incapacitation retirement Appx. A, - G -A8.588-3 refunds, redeposits when Appx. A, GENERAL OBLIGATION BONDS A8.588-9 Regulations, procedure 9.106 regulations generally Appx. A, A8.588 right to retire, requirements Appx. A, GENERAL PLAN Generally 4.105 service, credits, computation Appx. A, A8.588-10 -Hservice retirement Appx. A, A8.588-2 surviving dependents, payments Appx. HARBOR A, A8.588-5 vesting, regulations Appx. A, A8.588-15 Budgeting, fiscal procedures Appx. B, B3.584 Regulations generally Port area designated, control, authority See also Specific Subject generally APPX. B, B3.581 Applicability, regulations Revenue bonds Appx. B, B7.305 generally (Appx. A, A8.560) Revenue, expenditures, funding RETIREMENT SYSTEM appropriations, use Appx. B, B6.406 (Appx. A, A8.500) Transfer to city, county, effect dependent of department member killed employees' status Appx. B, B3.583 in line of duty Appx. A, A8.561 generally Appx. B, B3.582 members of department after January 8, 1932 and prior to July 1, 1949 Appx. HEALTH COMMISSION A, A8.567 Composition, appointment, powers, duties members of department before January 1, 4.110 1900 Appx. A, A8.560 members of department on, after July 1, HEALTH DEPARTMENT 1949 Appx. A, A8.568 Powers, duties 4.110 members of department on, after July 1, 1975 Appx. A, A8.585 HEALTH SERVICE BOARD members of department on January 8, Composition, appointment, election, powers, 1932 Appx. A, A8.565 duties 12.200 retired members, beneficiaries receiving Health service system, applicability of charter pension on January 8, 1932 Appx. A, provisions Appx. A, A8.427 underwriters' fire patrol member on HEALTH SERVICE FUND February 1, 1970 Appx. A, A8.562 Established, funding, use 12.203 FRANCHISES HEALTH SERVICE SYSTEM Grant, scope, authority 16.111 Administration, scope, authority health service board 12.200 **FUNDS** 

Health service fund 12.203

Health service system fund Appx. A,

medical director, health services

Applicability of charter provisions Appx. A,

administrator 12.201

A8.427

# HEALTH SERVICE SYSTEM

Benefits HUMAN RIGHTS COMMISSION coverage, participation, eligible persons Composition, appointment, powers, duties designated Appx. A, A8.425 4.107 specificity, contribution rates, requirements generally Appx. A, **HUMAN SERVICES COMMISSION** A8.424 Composition, appointment 4.111 Claims limitations Appx. A, A8.431 Contributions -1designation, determination Appx. A, IMPROPER GOVERNMENT ACTIVITIES payroll deductions, effect Appx. A, **ORDINANCE** A8.429 Administration, enforcement employee, position created, powers, duties Appx. C, requirements generally Appx. A, A8.424 Established, membership, exemptions Appx. C3.699-16 A. A8.420 Health service fund 12.203 INDEBTEDNESS Medical care, regulations generally Appx. A, Regulations generally 9.111 Membership 12.202 INITIATIVE Plans Ordinances designated, effect 18.103 adoption, procedure, effective date Appx. Petition A. A8.422 requirements generally 14.101 existing plans, continuance when Appx. signature withdrawal, procedure 14.104 Procedure generally 14.101 A. A8.421 Services Voter powers 14,100 fee schedules, compensation, adequacy, review, revision Appx. A, A8.423 INOUIRY right to provider selection Appx. A, Powers, scope, authority 16.113 A8.426 Transitional provisions Appx. A, A8.432 - 1 -HEALTH SERVICE SYSTEM FUND JUVENILE PROBATION COMMISSION Administration, investment authority Appx. Composition, appointment, powers, duties A. A8.429 7.102 Created, purpose, funding, expenditures JUVENILE PROBATION DEPARTMENT Appx. A, A8.428 Expenditures Composition, powers, duties 7.102 generally Appx. A, A8.428 restrictions generally Appx. A, A8.431 JUVENILE PROBATION OFFICER, CHIEF Transitional provisions Appx. A, A8.432 Powers, duties 7.102 **HEARINGS** -L-Requirements generally 16.112 LAW LIBRARY HUMAN RESOURCES DEPARTMENT Generally, fees 8.103 Administration, scope, authority 10.103 Composition, powers, duties 10.102 LAW LIBRARY BOARD OF TRUSTEES

8.103

HUMAN RESOURCES DIRECTOR

10.103

Selection, qualifications, powers, duties

Composition, appointment, powers, duties

# LAW LIBRARY FUND

LAW LIBRARY FUND MUSEUMS, CITY Established, funding, use 8.103 Asian Art Museum status, transition provisions 18.111 Designated 5.102 LEASE Trustees, commissioners, governing boards, Financing, agreements, regulations 9.108 Real property, authority, limitations 9.118 regulations, powers, duties 5.102 LIBRARIES -- N --Law library 8.103 Public libraries NOTICES Requirements generally 16.112 generally 8.102 services, materials, funding 16.109 -0-LIBRARY COMMISSION OFFICE OF CITIZEN COMPLAINTS Composition, appointment, term 8.102 Director, appointment, duties 4.127 Powers, duties 4.127 LIBRARY DEPARTMENT Generally 8.102 OFFICERS, CITY, COUNTY LIBRARY PRESERVATION FUND Board of supervisors 2.100, 13.110 Budget analyst 2.117 Established, funding, use 16.109 Building inspection director Appx. D, D3.750-2 — M — Clerk, county 4.131 MAYOR Clerk of the board 2.117 Conflict of interest 15.103, Appx. C, C8.105 Elections task force members appointment Elections director 13.104 Elective officers Former mayor, employment restrictions assessor-recorder 6.101 15.108 attorney, city 6.102 Ordinances, resolutions, veto authority 2.106 Powers, duties generally 3.100 board of supervisors 13.110 Taxi commission members appointment. designated, election, term 6.100 removal 4.133 district attorney 6.103 Term of office 3.101 powers, duties See Specific Officer Vacancy, filling 3.102 public defender 6.104 Veto power 3.103 retirement, applicability, regulations generally Appx. A, A8.501, A8.502, MEDICAL DIRECTOR Health service system, applicability of charter A8.507, A8.509 sheriff 6.105

provisions Appx. A, A8.427

# MILITARY LEAVE

See RETIREMENT SYSTEM (Appx. A, A8.520)

# MUNICIPAL COURT

Powers, duties, fees 7.100

#### MUNICIPAL RAILWAY

Personnel

compensation Appx. A, A8.404 hours Appx. A, A8.404, A8.450 term, generally 13.101

administration, scope, authority

ethics commission 15.100

conflict of interest 15.103, Appx. C,

dual office holding, effect 15.106

ethics commission executive director

treasurer 6.106 vacancies, filling 6.107

C8.105

Ethics

former mayor, supervisors, employment restrictions 15.108	medical care, regulations generally Appx A. A8.430
improper government activities ordinance	membership 12.202
administration, enforcement employee,	plans
position created, powers, duties Appx.	adoption, procedure, effective date
C, C3.699-16	Appx. A, A8.422
official misconduct	existing plans, continuance when
penalties generally 15.104	Appx. A, A8.421
suspension, removal when, effect	services
15.105	fee schedules, compensation,
opinions, advice, procedure, authority	adequacy, review, revision Appx.
Appx. C, C3.699-12	A, A8.423
provisions generally 16.118	right to provider selection Appx. A,
rules, regulations	A8.426
administration, implementation	transitional provisions Appx. A, A8.432
authority Appx. C, C3.699-10	Health services administrator 12.201
fees Appx. C, C3.699-14	Human resources director 10.103
scope, procedures Appx. C,	Mayor 3.100
C3.699-11	Medical director 12.201, Appx. A, A8.427
generally 15.102	Port director Appx. B, B3.581
violations, investigation, procedure,	Prohibited practices Appx. C, C8.105
enforcement remedies Appx. C,	Retirement, applicability, regulations
C3.699-13	generally Appx. A, A8.501, A8.502,
Ethics commission executive director 15.101	A8.507, A8.509
Fidelity bonds, requirements	Transition provisions
generally 2.212	changes in offices, positions 18.105
transition provisions 2.212 Health service system	functions, powers, duties transfer 18.104 incumbent officers, status 18.108
administration, scope, authority	,
health service board 12.200	rules, regulations review, adoption 18.107
medical director, health services	Vacancy, retirement of elective officer,
administrator 12.201	procedure Appx. A, A8.501
applicability of charter provisions Appx.	procedure Appx. A, Ao.301
A. A8.427	ORDINANCES, RESOLUTIONS
benefits	Emergency ordinances 2.107
coverage, participation, eligible	Public's right to know, scope 2.108
persons designated Appx. A,	Required when, procedure generally 2.105
A8.425	Veto
specificity, contribution rates,	enactment when 2.106
requirements generally Appx. A,	mayor authority 3.103
A8.424	•
claims limitations Appx. A, A8.431	— P —
contributions	
designation, determination Appx. A,	PARATRANSIT PROGRAM
A8.428	Operator participation, fees reduction when
payroll deductions, effect Appx. A,	4.133
A8.429	
requirements generally Appx. A,	PARK AND OPEN SPACE ADVISORY
A8.424	COMMITTEE
established, membership, exemptions	Composition, appointment, term, powers,
Appx. A, A8.420	duties 16.107

health service fund 12.203

# PARK AND OPEN SPACE FUND

PARK AND OPEN SPACE FUND	expenses reimbursement
Established, funding, use 16.107	equipment repair, replacement Appx. A, A8.411
PARKING AND TRAFFIC COMMISSION	generally Appx. A, A8.410
Composition, appointment, powers, duties	pay freeze, scope, applicability, fiscal
4.116	year 1995—1996 Appx. A, A8.409-4
	reimbursements
PENSION PLANS	equipment repair, replacement Appx.
See FIRE DEPARTMENT RETIREMENT	A, A8.411
SYSTEM (Appx. A, A8.560)	generally Appx. A, A8.410
POLICE DEPARTMENT	rules, regulations generally Appx. A,
RETIREMENT SYSTEM (Appx. A,	A8.400
A8.540)	schedules of compensation
RETIREMENT SYSTEM (Appx. A,	municipal railway, designated
A8.500)	employees Appx. A, A8.404
	pay freeze, scope, applicability, fiscal
PERSONNEL	year 1995—1996 Appx. A,
Appointments	A8.409-4
eligibles, certification, list, use Appx. A,	police, fire department uniformed
A8.329	forces Appx. A, A8.405
provisional appointments	registered nurse classifications Appx.
generally 10.105	A, A8.403
transition provisions 10.105	teachers, part-time employees, certain
regulations generally 10.104	other groups Appx. A, A8.402
Civil service merit system	Conflict of interest, prohibited practices
administration, scope, authority	Appx. C, C8.105
civil service commission 10.101	Continuous service, effect Appx. A, A8.520
human resources department 10.102	Deductions
human resources director 10.103	economic emergency, maximum
excluded positions	designated, duration Appx. A, A8.406
designated 10.104	rules, regulations generally Appx. A,
transition provisions 18.108, 18.109	A8.400
Collective bargaining	Disciplinary actions
applicability Appx. A, A8.409-1	dismissal
arbitration procedure Appx. A, A8.409-4	for cause Appx. A, A8.341
employee relations rules review Appx.	police, fire department uniformed
A, A8.409-6	ranks Appx. A, A8.343
good faith obligation Appx. A, A8.409-3	police, fire department uniformed ranks
interim provisions Appx. A, A8.409-2	actions designated, procedures Appx.
policy Appx. A, A8.409	A, A8.343
retirement benefits Appx. A, A8.409-5	exoneration of charges, effect Appx.
Compensation	A, A8.344
deductions	striking employees Appx. A, A8.345
economic emergency, maximum	strike prohibitions Appx. A, A8.345,
designated, duration Appx. A,	A8.346
A8.406	striking employees
rules, regulations generally Appx. A,	police, fire department uniformed
A8.400	ranks Appx. A, A8.345 regulations generally Appx. A,
emergency, effect Appx. A, A8.406	A8.346
equipment, expenses reimbursement	M0.340
Appx. A, A8.411	

```
suspension
      police, fire department uniformed
        ranks Appx. A, A8.343
      procedure generally, duration Appx.
        A. A8.342
Dismissal, disciplinary actions Appx. A,
 A8.341, A8.343
Domestic partnership, retirement benefits,
 surviving partner eligibility Appx. A,
 A8.500-2
Eligibles, certification Appx. A, A8.329
Emergency, compensation deductions during
 Appx. A, A8.406
Employee-employer relations system
   employee relations office 11.101
   generally 11.100
Employment provisions, generally 16.116
Ethics
   administration, scope, authority
      ethics commission 15.100
      ethics commission executive director
        15.101
   conflict of interest 15.103, Appx. C,
    C8.105
   dual office holding, effect 15.106
   former mayor, supervisors, employment
    restrictions 15.108
   improper government activities ordinance
    administration, enforcement employee,
    position created, powers, duties Appx.
    C, C3.699-16
   official misconduct
      penalties generally 15.104
      suspension, removal when, effect
        15.105
   opinions, advice, procedure, authority
    Appx. C, C3.699-12
   provisions generally 16.118
   rules, regulations
      administration, implementation
         authority Appx. C, C3.699-10
         fees Appx. C, C3.699-14
```

		<b>€</b> ; =	

scope, procedures Appx. C, C3.699-11	right to provider selection Appx. A, A8.426
generally 15.102	transitional provisions Appx. A, A8.432
violations, investigation, procedure,	Hours, tours of duty
enforcement remedies Appx. C,	fire department Appx. A, A8.452
C3.699-13	municipal railway, designated personnel
Expenses reimbursement	Appx. A, A8.450
equipment repair, replacement Appx. A,	police department Appx. A, A8.451
A8.411	Military service, leave
generally Appx. A, A8.410	See RETIREMENT SYSTEM (Appx. A, A8.520)
Fire department See also Specific Subject	Pension
FIRE DEPARTMENT	See FIRE DEPARTMENT
RETIREMENT SYSTEM	RETIREMENT SYSTEM (Appx.
(Appx. A, A8.560)	A, A8.560)
RETIREMENT SYSTEM	POLICE DEPARTMENT
(Appx. A, A8.500)	RETIREMENT SYSTEM (Appx.
hours, tours of duty Appx. A, A8.452	A, A8.540)
Health service system	RETIREMENT SYSTEM (Appx. A,
administration, scope, authority	A8.500)
health service board 12.200	Police department
medical director, health services	See also Specific Subject
administrator 12.201	POLICE DEPARTMENT
applicability of charter provisions Appx.	RETIREMENT SYSTEM
A, A8.427	(Appx. A, A8.540)
benefits	RETIREMENT SYSTEM
coverage, participation, eligible	(Appx. A, A8.500)
persons designated Appx. A,	hours, tours of duty Appx. A, A8.451
A8.425	Prohibited practices Appx. C, C8.105 Reimbursements
specificity, contribution rates,	
requirements generally Appx. A, A8.424	equipment repair, replacement Appx. A, A8.411
claims limitations Appx. A, A8.431	generally Appx. A, A8.410
contributions	Retirement
designation, determination Appx. A,	See FIRE DEPARTMENT
A8.428	RETIREMENT SYSTEM (Appx. A, A8.560)
payroll deductions, effect Appx. A, A8.429	POLICE DEPARTMENT
requirements generally Appx. A,	RETIREMENT SYSTEM (Appx.
A8.424	A, A8.540)
established, membership, exemptions	RETIREMENT SYSTEM (Appx. A,
Appx. A, A8.420	A8.500)
health service fund 12.203	Salaries
medical care, regulations generally Appx.	See Compensation (Appx. A, A8.400)
A, A8.430	Sick leave, unused, transfer Appx. A,
membership 12.202	A8.364
plans	Strike
adoption, procedure, effective date	fire department, police department, airport
Appx. A, A8.422	police officers
existing plans, continuance when	disciplinary actions Appx. A,
Appx. A, A8.421	A8.345, A8.346
services	policy Appx. A, A8.590-1 prohibited, effect Appx. A, A8.590-3
fee schedules, compensation, adequacy, review, revision Appx.	prohibitions Appx. A, A8.345, A8.346
A, A8.423	ארטונוטונטונט האףא. ה, הטיידי, הטיידי

# **PERSONNEL**

striking employees	PERSONNEL SPECIAL STRIKE
police, fire department uniformed	COMMITTEE
ranks Appx. A, A8.345	Creation, composition, powers, duties
regulations generally Appx. A, A8.346	generally Appx. A, A8.346
Suspension	PLANNING COMMISSION
police, fire department uniformed ranks	Composition, appointment, powers, duties
Appx. A, A8.343	4.105
procedure generally, duration Appx. A,	DY AND THE COURT OF A DESCRIPTION
A8.342	PLANNING DEPARTMENT
Tours of duty	Powers, duties 4.105
fire department Appx. A, A8.452 municipal railway, designated personnel	POLICE CHIEF
Appx. A, A8.450	Powers, duties 4.127
police department Appx. A, A8.451	Towers, dudes 4.127
Transfers	POLICE COMMISSION
sick leave, unused Appx. A, A8.364	Composition, appointment 4.109
vacation credits Appx. A, A8.441	composition, appointment with
Transition provisions	POLICE DEPARTMENT
excluded positions 18.108, 18.109	See also POLICE DEPARTMENT
incumbent employees, status 18.108	RETIREMENT SYSTEM (Appx.
provisional appointments 10.105	A, A8.540)
Vacations	RETIREMENT SYSTEM (Appx. A
accrual, use Appx. A, A8.440	A8.500)
credits, transfer Appx. A, A8.441	Composition, duties 4.127
Wages, benefits dispute, fire department,	Disciplinary actions
police department, airport police officers	dismissal, uniformed ranks Appx. A,
applicability of provisions Appx. A,	A8.343
A8.590-2	striking employees, uniformed ranks Appx. A, A8.345
good faith negotiation, obligation Appx. A, A8.590-4	suspension, uniformed ranks Appx. A,
impasse, resolution procedures Appx. A,	A8.343
A8.590-5	uniformed ranks
policy, declaration Appx. A, A8.590-1	actions designated, procedures Appx
retiree benefits adjustment, restrictions	A, A8.343
Appx. A, A8.590-6	exoneration of charges, effect Appx
strike	A, A8.344
disciplinary actions Appx. A, A8.345,	striking employees Appx. A, A8.345
A8.346	Hours, tours of duty Appx. A, A8.451
policy Appx. A, A8.590-1	Retirement
prohibited, effect Appx. A, A8.590-3	See POLICE DEPARTMENT
tax benefits, preservation Appx. A,	RETIREMENT SYSTEM (Appx.
A8.590-7	A, A8.540)
Workmen's compensation	RETIREMENT SYSTEM (Appx. A
eligibility, effect Appx. A, A8.515 retirement allowance adjustment when	A8.500) Strike
fire department retirement system	disciplinary actions Appx. A, A8.345,
Appx. A, A8.575, A8.585-7,	A8.346
A8.588-7	policy Appx. A, A8.590-1
miscellaneous officers, employees,	prohibited, effect Appx. A, A8.590-3
employment after November 1, 1976	Wages, benefits dispute
Appx. A, A8.584-4	applicability of provisions Appx. A,
police department retirement system	A8.590-2
Appx. A, A8.551, A8.559-7,	good faith negotiation, obligation Appx
A8.586-7	A, A8.590-4

impasse, resolution procedures Appx. A,	members of department on, after		
A8.590-5	November 2, 1976 Appx. A, A8.586		
policy, declaration Appx. A, A8.590-1	members of department on January 8,		
retiree benefits adjustment, restrictions	1932 Appx. A, A8.540		
Appx. A, A8.590-6	retired members, beneficiaries receiving		
strike	pension on January 8, 1932 Appx. A,		
disciplinary actions Appx. A, A8.345,	A8.542		
A8.346	Killed in line of duty, effect Appx. A,		
policy Appx. A, A8.590-1	A8.561		
prohibited, effect Appx. A, A8.590-3	Members of department on, after July 1,		
tax benefits, preservation Appx. A,	1945		
A8.590-7	allowance adjustments		
Workmen's compensation	allowance first payable prior to July 1,		
eligibility, effect Appx. A, A8.515	1975 Appx. A, A8.558		
retirement allowance adjustment when	generally, applicability Appx. A,		
Appx. A, A8.551, A8.559-7, A8.586-7	A8.550		
,	workmen's compensation benefits		
POLICE DEPARTMENT RETIREMENT	Appx. A, A8.551		
SYSTEM	applicability, regulations generally Appx.		
See also RETIREMENT SYSTEM (Appx. A,	A, A8.544		
A8.500)	benefits, regulations generally Appx. A,		
Allowance adjustments	A8.544		
See also Specific Subject	contribution requirements Appx. A,		
generally, applicability Appx. A, A8.550	A8.555		
members of department on, after July 1,	death allowance Appx. A, A8.548		
1945	death benefit Appx. A, A8.552		
allowance first payable prior to July 1,	definitions Appx. A, A8.545		
1975 Appx. A, A8.558	employment restrictions during retirement		
workmen's compensation benefits	Appx. A, A8.557		
Appx. A, A8.551	incapacitation retirement Appx. A,		
members of department on, after July 1,	A8.547		
1975	refunds, redeposits when Appx. A,		
generally, applicability Appx. A,	A8.553		
A8.559-6	right to retire, requirements Appx. A,		
workmen's compensation benefits	A8.556		
Appx. A, A8.559-7	service, credits, computation Appx. A,		
members of department on, after	A8.554		
November 2, 1976	service retirement Appx. A, A8.546		
generally, applicability Appx. A,	surviving dependents, payments Appx.		
A8.586-6	A, A8.549		
workmen's compensation benefits	Members of department on, after July 1,		
Appx. A, A8.586-7	1975		
Applicability, regulations generally	allowance adjustments		
See also Specific Members	generally, applicability Appx. A,		
allowance adjustments Appx. A, A8.550	A8.550, A8.559-6		
dependent of department member killed	workmen's compensation benefits		
in line of duty Appx. A, A8.561	Appx. A, A8.559-7		
members of department after January 8,	applicability, regulations generally Appx.		
1932 and prior to July 1, 1945 Appx.	A, A8.559		
A, A8.543	Charter Section Appx. A, A8.586		
	provisions, right to transfer to,		
members of department before January 1,	designated Appx. A, A8.559-14		
1900 Appx. A, A8.560	contribution requirements Appx. A,		
members of department on, after July 1,	A8.559-11		
1945 Appx. A, A8.544	death allowance Appx. A, A8.559-4		
members of department on, after July 1,	death benefit Appx. A, A8.559-8		
1975 Appx. A, A8.559	ucaui velietit Appa. A, Ao.222-0		

# POLICE DEPARTMENT RETIREMENT SYSTEM

members of department before January 1, definitions Appx. A, A8.559-1 1900 Appx. A, A8.560 employment restrictions during retirement members of department on, after July 1, Appx. A, A8.559-13 1945 Appx. A, A8.544 incapacitation retirement Appx. A, members of department on, after July 1, A8.559-3 refunds, redeposits when Appx. A, 1975 Appx. A, A8.559 members of department on, after A8.559-9 November 2, 1976 Appx. A, A8.586 right to retire, requirements Appx. A, A8.559-12 members of department on January 8, 1932 Appx. A, A8.540 service, credits, computation Appx. A, retired members, beneficiaries receiving A8.590-10 pension on January 8, 1932 Appx. A, service retirement Appx. A, A8.559-2 surviving dependents, payments Appx. Salary, corporal, base for former rank of A. A8.559-5 vesting, regulations Appx. A, A8.559-15 corporal Appx. A, A8.541 Members of department on, after November POLICY DECLARATIONS 2, 1976 Voters, submittal to, effect 2.113 allowance adjustments generally, applicability Appx. A, PORT AGREEMENTS A8.550, A8.586-6 Generally 16.117 workmen's compensation benefits Appx. A, A8.586-7 applicability, regulations generally Appx. PORT AREA See also HARBOR (Appx. B, B3.582) A. A8.586 Designated, control, authority generally conflicting provisions, effect Appx. A, A8.586-14 contribution requirements Appx. A, PORT AUTHORITY A8.586-11 Harbor, transfer to city, county, effect death allowance Appx. A, A8.586-4 employees' status Appx. B, B3.583 death benefit Appx. A, A8.586-8 generally Appx. B, B3.582 definitions Appx. A, A8.586-1 employment restrictions during retirement PORT COMMISSION Appx. A, A8.586-13 Composition, appointment, powers, duties incapacitation retirement Appx. A, A8.586-3 4.114 Legal advisor, attorney, city, designated, refunds, redeposits when Appx. A, authority Appx. B, B3.585 A8.586-9 Powers, duties generally Appx. B, B3.581 right to retire, requirements Appx. A, A8.586-12 Revenue bonds, authority generally Appx. B, B7.305 service, credits, computation Appx. A, A8.586-10 PORT COMMISSION REVENUE BONDS service retirement Appx. A, A8.586-2 Generally 9.112, Appx. B, B7.305 surviving dependents, payments Appx. A. A8.586-5 vesting, regulations Appx. A, A8.586-15 PORT DIRECTOR Appointment, powers, duties generally Regulations generally Appx. B, B3.581 See also Specific Subject RETIREMENT SYSTEM (Appx. A, A8.500) **PROBATION** allowance adjustments Appx. A, A8.550 Adult probation 7.101 dependent of department member killed PROPERTY in line of duty Appx. A, A8.561 members of department after January 8, Real property, sale, lease authority, limitations 9.118 1932 and prior to July 1, 1945 Appx. A, A8.543

# PUBLIC DEFENDER

# PUBLIC DEFENDER

Elective officer, designated, qualifications 6.100

Powers, duties 6,104

#### PUBLIC LIBRARIES

Generally 8.102 Services, materials, funding 16.109

#### PUBLIC TRANSIT

Cable cars, lines designated, maintenance, operation 16.100

Routes abandonment, procedure, authority 2.111

Support revenues, source, use 16.110 Transit-first policy 16.102

# PUBLIC TRANSPORTATION COMMISSION Composition, appointment, powers, duties 4.117

# PUBLIC UTILITIES

See UTILITIES, PUBLIC UTILITIES (16.101)

# PUBLIC UTILITIES COMMISSION

Composition, appointment, powers, duties 4.112

# PUBLIC WORKS DEPARTMENT

Powers, duties 4.130

# PUBLIC WORKS, IMPROVEMENTS

Construction, repair contract, working conditions Appx. A, A7.204

- R -

#### RATES

Approval, procedure, authority 2.109

#### REAL PROPERTY

Sale, lease authority, limitations 9.118

#### RECALL

Petition

requirements generally 14.103 signature withdrawal, procedure 14.104 Procedure generally 14.103

# RECORDS, CITY, COUNTY

Public's right to know, scope 2.108 Publication, access, regulations 16.112

# RECREATION AND PARK COMMISSION

Composition, appointment, powers, duties 4.113

RECREATION AND PARK DEPARTMENT Powers, duties 4.113

# RECREATIONAL APPROPRIATIONS Scope, use 16.106

#### REDISTRICTING

Supervisorial districts, procedure, regulations 13.110

#### REFERENDUM

Petition

requirements generally 14.102 signature withdrawal, procedure 14.104 Procedure generally 14.102 Voter powers 14.100

# REFUNDING BONDS Generally 9.109

#### RESOLUTIONS

See ORDINANCES, RESOLUTIONS (2.105)

# RETIREMENT

See FIRE DEPARTMENT RETIREMENT SYSTEM (Appx. A, A8.560) POLICE DEPARTMENT RETIREMENT SYSTEM (Appx. A, A8.540) RETIREMENT SYSTEM (Appx. A, A8.500)

#### RETIREMENT BOARD

Composition, appointment, qualifications, term, powers, duties 12.100

Executive director, powers, duties 12.101

Retirement allowance, cost of living adjustments, supplemental, reserve account creation duties Appx. A, A8.526-1

#### RETIREMENT FUND

Contributions, general regulations, requirements

fire department retirement system Appx. A, A8.579, A8.585-11, A8.588-11 police department retirement system Appx. A, A8.555, A8.559-11, A8.586-11

retirement system Appx. A, A8.510, A8.525

Established, funding, use 12.103
Supplemental cost of living benefit reserve account established, funding, use Appx. A, A8.526-1

RETIREMENT SYSTEM	Housing Authority housing police
See also FIRE DEPARTMENT	officers Appx. A, A8.506-3
RETIREMENT SYSTEM (Appx.	miscellaneous officers, employees,
A, A8.560)	employment after November 1, 1976
POLICE DEPARTMENT	Appx. A, A8.584
RETIREMENT SYSTEM (Appx.	nurses, per diem Appx. A, A8.506-4
A, A8.540)	officers, elective Appx. A, A8.501,
Actuarial tables Appx. A, A8.510	A8.502
Administration, scope, authority	officers, employees in employ on
retirement board 12.100	January 8, 1932 Appx. A, A8.507
retirement board executive director	officers, employees in employ on or
12.101	after February 1, 1969 Appx. A,
Applicability, regulations generally	A8.509
See also FIRE DEPARTMENT	officers, employees in employ on or
RETIREMENT SYSTEM	after July 1, 1947 Appx. A, A8.509
(Appx. A, A8.574)	Pacific Gas & Electric Company
POLICE DEPARTMENT	employees Appx. A, A8.508
RETIREMENT SYSTEM	Parking Authority officers, employees
(Appx. A, A8.540)	Appx. A, A8.504
court employees, attaches Appx. A,	Port Authority officers, employees
A8.503	Appx. A, A8.505
Housing Authority housing police officers	safety employees, designated Appx.
Appx. A, A8.506-3	A, A8.506-2
miscellaneous officers, employees,	sheriff's department Appx. A, A8.506
employment after November 1, 1976	teachers Appx. A, A8.506-1, A8.507,
Appx. A, A8.584	A8.512
nurses, per diem Appx. A, A8.506-4	domestic partnership, surviving partner
officers, elective Appx. A, A8.501,	eligibility Appx. A, A8.500-2
A8.502	reciprocal benefits within system, with
officers, employees in employ on January	other pension plans Appx. A, A8.500-1
8, 1932 Appx. A, A8.507	Community property rights, applicability
officers, employees in employ on or after	Appx. A, A8.527
February 1, 1969 Appx. A, A8.509	Continuance, purpose, requirements Appx.
officers, employees in employ on or after	A, A8.500
July 1, 1947 Appx. A, A8.509	Continuous service, effect Appx. A, A8.520
Pacific Gas & Electric Company	Contributions
employees Appx. A, A8.508	city, county contributions
Parking Authority officers, employees	members of fire department on, after
Appx. A, A8.504	July 1, 1949 Appx. A, A8.579
Port Authority officers, employees Appx.	members of fire department on, after
A, A8.505	July 1, 1975 Appx. A, A8.585-11
safety employees, designated Appx. A,	members of fire department on, after
A8.506-2	November 2, 1976 Appx. A,
sheriff's department Appx. A, A8.506	A8.588-11
teachers	members of police department on,
generally Appx. A, A8.507, A8.512	after July 1, 1945 Appx. A, A8.555
unified school district, community	members of police department on,
college district Appx. A, A8.506-1	after July 1, 1975 Appx. A,
Benefits	A8.559-11
See also Specific Subject	members of police department on,
change Appx. A, A8.500	after November 2, 1976 Appx. A,
determination	A8.586-11
court employees, attaches Appx. A,	miscellaneous officers, employees,
A8.503	employment after November 1, 1976
	Appx. A, A8.584-8

requirements generally Appx. A, A8.500,	nurses, per diem Appx. A, A8.506-4 officers, elective Appx. A, A8.501,
A8.525	A8.502
liabilities, regulations generally Appx. A, A8.510	officers, employees in employ on January 8, 1932 Appx. A, A8.507
determination	officers, employees in employ on or
court employees, attaches Appx. A,	after February 1, 1969 Appx. A,
A8.503	A8.509
Housing Authority housing police	officers, employees in employ on or
officers Appx. A, A8.506-3	after July 1, 1947 Appx. A, A8.509
miscellaneous officers, employees,	Pacific Gas & Electric Company
employment after November 1, 1976	employees Appx. A, A8.508
Appx. A, A8.584	Parking Authority officers, employees
nurses, per diem Appx. A, A8.506-4	Appx. A, A8.504
officers, elective Appx. A, A8.501,	Port Authority officers, employees
A8.502	Appx. A, A8.505
officers, employees in employ on January 8, 1932 Appx. A, A8.507	safety employees, designated Appx. A, A8.506-2
officers, employees in employ on or	sheriff's department Appx. A, A8.506
after February 1, 1969 Appx. A,	teachers Appx. A, A8.506-1, A8.507,
A8.509	A8.512
officers, employees in employ on or	representative service designated, credit
after July 1, 1947 Appx. A, A8.509	when Appx. A, A8.519
Pacific Gas & Electric Company	Death allowance
employees Appx. A, A8.508	application, procedures 12.102, Appx. A,
Parking Authority officers, employees	A8.518
Appx. A, A8.504	cost of living adjustments when Appx.
Port Authority officers, employees	A, A8.526
Appx. A, A8.505	Disability
safety employees, designated Appx.	leave, application hearing procedures
A, A8.506-2	Appx. A, A8.518
sheriff's department Appx. A, A8.506	retirement, application hearing procedures
teachers Appx. A, A8.506-1, A8.507, A8.512	Appx. A, A8.518 Disability benefits
liabilities Appx. A, A8.510	police, fire department members
military service Appx. A, A8.520,	generally Appx. A, A8.516
A8.521	workmen's compensation, eligibility,
requirements generally Appx. A, A8.525	effect Appx. A, A8.515
Social Security coverage, effect	workmen's compensation, eligibility,
Appx. A, A8.514	effect Appx. A, A8.515
Cost of living benefit adjustments	Domestic partnership, retirement benefits,
death allowance, when Appx. A, A8.518	surviving partner eligibility Appx. A,
retirement allowance	A8.500-2
generally Appx. A, A8.526	Fire department members regulations
supplemental, regulations, funding	See Specific Subject
Appx. A, A8.526-1 Credit	FIRE DEPARTMENT
determination	RETIREMENT SYSTEM (Appx. A, A8.560)
court employees, attaches Appx. A,	Fund
A8.503	contributions to, requirements
Housing Authority housing police	fire department retirement system
officers Appx. A, A8.506-3	Appx. A, A8.579, A8.585-11,
miscellaneous officers, employees,	A8.588-11
employment after November 1, 1976	generally Appx. A, A8.510
Appx. A. A8.584	

police department retirement system Appx. A, A8.555, A8.559-11,	Miscellaneous officers, employees, employment after November 1, 1976
A8.586-11 retirement system Appx. A, A8.510, A8.525	allowance adjustments generally, applicability Appx. A, A8.584-11
established, funding, use 12.103 Hearing officer selection, qualifications,	workmen's compensation benefits, prohibited Appx. A, A8.584-4
powers, duties generally Appx. A, A8.518 Liabilities Appx. A, A8.510	applicability, regulations generally Appx. A, A8.584
Mandatory retirement, exceptions, applicability, requirements Appx. A,	benefits, membership termination, benefits when Appx. A, A8.584-6
A8.517 Membership	conflicting provisions, effect Appx. A, A8,584-12
See also FIRE DEPARTMENT	contribution requirements Appx. A,
RETIREMENT SYSTEM	A8.584-8
(Appx. A, A8.560)	death benefit designated Appx. A,
POLICE DEPARTMENT	A8.584-5
	definitions Appx. A, A8.584-1
RETIREMENT SYSTEM	employment restrictions during retirement
(Appx. A, A8.540)	
court employees, attaches Appx. A,	Appx. A, A8.584-10
A8.503	incapacitation retirement Appx. A,
Housing Authority housing police officers	A8.584-3
Appx. A, A8.506-3	retirement allowance
miscellaneous officers, employees,	See Retirement allowance (Appx. A,
employment after November 1, 1976	A8.511)
Appx. A, A8.584	right to retire, requirements Appx. A,
nurses, per diem Appx. A, A8.506-4	A8.584-9
officers, elective Appx. A, A8.501, A8.502	service, credits, computation Appx. A, A8.584-7
officers, employees in employ on January	service retirement Appx. A, A8.584-2
8, 1932 Appx. A, A8.507	Officers, elective, applicability, regulations
officers, employees in employ on or after	generally Appx. A, A8.501, A8.502,
February 1, 1969 Appx. A, A8.509	A8.507, A8.509
officers, employees in employ on or after	Pensions
July 1, 1947 Appx. A, A8.509	See Retirement allowance (Appx. A,
Pacific Gas & Electric Company	A8.511)
employees Appx. A, A8.508	Police department members regulations
Parking Authority officers, employees	See Specific Subject
	POLICE DEPARTMENT
Appx. A, A8.504	RETIREMENT SYSTEM (Appx.
Port Authority officers, employees Appx.	A, A8.540)
A, A8.505	Reciprocal benefits, plans Appx. A,
safety employees, designated Appx. A,	A8.500-1
A8.506-2	Regulations generally
sheriff's department Appx. A, A8.506	See also Specific Subject
teachers	court employees, attaches Appx. A,
generally Appx. A, A8.507, A8.512	• •
unified school district, community	A8.503
college district Appx. A, A8.506-1	Housing Authority housing police officers
Military service	Appx. A, A8.506-3
contributions	miscellaneous officers, employees,
continuous service requirements	employment after November 1, 1976
Appx. A, A8.520	Appx. A, A8.584
credits for certain service Appx. A,	nurses, per diem Appx. A, A8.506-4
A8.521	officers, elective Appx. A, A8.501,
military leave, effect Appx. A, A8.361, A8.520, A8.521	A8.502

officers, employees in employ on January	retirement prior to July 2, 1985
8, 1932 Appx. A, A8.507	Appx. A, A8.539-1
officers, employees in employ on or after	retirement prior to July 2, 1988
February 1, 1969 Appx. A, A8.509	Appx. A, A8.539-2
officers, employees in employ on or after	retirement prior to July 2, 1991
July 1, 1947 Appx. A, A8.509	Appx. A, A8.539-3
Pacific Gas & Electric Company	reduction, Social Security coverage, effect
employees Appx. A, A8.508	Appx. A, A8.514
Parking Authority officers, employees	work restrictions, effect Appx. A,
Appx. A, A8.504	A8.511
Port Authority officers, employees Appx.	Retirement, mandatory
A, A8.505	determination
safety employees, designated Appx. A,	court employees, attaches Appx. A,
A8.506-2	A8.503
sheriff's department Appx. A, A8.506	Housing Authority housing police
teachers	officers Appx. A, A8.506-3
generally Appx. A, A8.507, A8.512	miscellaneous officers, employees,
unified school district, community	employment after November 1, 1976
college district Appx. A, A8.506-1	Appx. A, A8.584 nurses, per diem Appx. A, A8.506-4
Representative service designated, credit	
when Appx. A, A8.519	officers, elective Appx. A, A8.501, A8.502
Retirement allowance	officers, employees in employ on
See also Specific Subject adjustments	January 8, 1932 Appx. A, A8.507
cost of living adjustments when	officers, employees in employ on or
generally Appx. A, A8.526	after February 1, 1969 Appx. A,
supplemental cost of living benefit	A8.509
adjustments, regulations, funding	officers, employees in employ on or
Appx. A8.526-1	after July 1, 1947 Appx. A, A8.509
miscellaneous officers, employees,	Pacific Gas & Electric Company
employment after November 1, 1976	employees Appx. A, A8.508
Appx. A, A8.584-4, A8.584-11	Parking Authority officers, employees
application, procedures 12.102	Appx. A, A8.504
increases, amount, male person,	Port Authority officers, employees
retirement prior to July 1, 1977, under	Appx. A, A8.505
certain provisions Appx. A, A8.538	safety employees, designated Appx.
increases, amount, miscellaneous officers,	A, A8.506-2
employees	sheriff's department Appx. A, A8.506
retirement on or after July 1, 1947	teachers Appx. A, A8.506-1, A8.507,
and prior to April 1, 1966 Appx. A,	A8.512
A8.535	exceptions, applicability, requirements
retirement on or after July 1, 1947	when Appx. A, A8.517 Service, credits
and prior to July 1, 1974 Appx. A,	determination
A8.536	court employees, attaches Appx. A,
retirement prior to January 1, 1972 Appx. A, A8.537	A8.503
retirement prior to July 1, 1947	Housing Authority housing police
Appx. A, A8.530, A8.531, A8.533	officers Appx. A, A8.506-3
retirement prior to July 1, 1952	miscellaneous officers, employees,
Appx. A, A8.532	employment after November 1, 1976
retirement prior to July 2, 1952	Appx. A, A8.584
Appx. A, A8.534	nurses, per diem Appx. A, A8.506-4
retirement prior to July 2, 1980	officers, elective Appx. A, A8.501,
Appx. A, A8.539	A8.502

January 8, 1932 Appx. A, A8.507 officers, employees in employ on or after February 1, 1969 Appx. A,	Port commission revenue bonds 9.112, Appx. B, B7.305 Regulations generally, election requirement
A8.509	9.107
officers, employees in employ on or after July 1, 1947 Appx. A, A8.509 Pacific Gas & Electric Company	REVENUE, EXPENDITURES Harbor Appx. B, B6.406
employees Appx. A, A8.508	Пшоог Турх. В, Волто
Parking Authority officers, employees Appx. A, A8.504	REVIEW Powers, scope, authority 16.114
Port Authority officers, employees	
Appx. A, A8.505	— S —
safety employees, designated Appx.	SAN EDANGISCO HARROR
A, A8.506-2	SAN FRANCISCO HARBOR
sheriff's department Appx. A, A8.506 teachers Appx. A, A8.506-1, A8.507,	See HARBOR (Appx. B, B3.582)
A8.512	SCHOOL DISTRICT
representative service designated, credit	Health service system contributions,
when Appx. A, A8.519	obligations generally Appx. A, A8.428
Social Security coverage, applicability, effect	Teachers, retirement
Appx. A, A8.514	See RETIREMENT SYSTEM (Appx. A
Supplemental cost of living benefit	A8.506-1, A8.512)
adjustments	
death allowance, when Appx. A, A8.518	SHERIFF
retirement allowance	Elective officer, designated 6.100
generally Appx. A, A8.526 supplemental, regulations, funding	Powers, duties 6.105
Appx. A, A8.526-1	SOCIAL SECURITY
Tables, valuations, applicability Appx. A,	Coverage, applicability, effect Appx. A,
A8.510	A8.514
Teachers	
applicability, regulations generally Appx.	STRIKE
A, A8.506-1, A8.507, A8.512	Fire department, police department, airport
transfer from city, county retirement	police officers
system to state retirement system credit on current contributions when	disciplinary actions Appx. A, A8.345, A8.346
Appx. A, A8.513	policy Appx. A, A8.590-1
payments to state system when Appx.	prohibited, effect Appx. A, A8.590-3
A, A8.512 Valuations Appx. A, A8.510	Prohibitions Appx. A, A8.345, A8.346 Striking employees
Work restrictions Appx. A, A8.511	police, fire department uniformed ranks
Workmen's compensation	Appx. A, A8.345
allowance adjustment when	regulations generally Appx. A, A8.346
fire department retirement system	g, III ,
Appx. A, A8.575, A8.585-7,	SUPERIOR COURT
A8.588-7	Powers, duties, fees 7.100
miscellaneous officers, employees,	
employment after November 1, 1976	SUPERVISORIAL DISTRICTS
Appx. A, A8.584-4	Purpose, establishment, designation,
police department retirement system Appx. A, A8.551, A8.559-7,	redistricting, regulations generally 13.110
Appx. A, A6.331, A6.339-7, A8.586-7	SUPERVISORS
eligibility, effect Appx. A, A8.515	See BOARD OF SUPERVISORS (2.100)
	211 2 311112 31 341 211 13 3113 (21100)

#### -T

#### TAXI COMMISSION

Composition, appointment, powers, duties, fees 4.133

#### TRANSIT

Cable cars, lines designated, maintenance, operation 16.100

Public transit support revenues, source, use 16.110

Routes abandonment, procedure, authority 2.111

Transit-first policy 16.102

#### TRANSITION PROVISIONS

1932 Charter sections transferred, enacted 18.103

Asian Art Museum status 18.111
Boards, commissions, terms 18.114
Budget, mission-driven, phase-in 18.113
Charter preparation, indexing 18.112
Contract obligations not impaired 18.102
Effective date, expiration date 18.100
Fidelity bond requirements 2.212
Health service system Appx. A, A8.432
Incumbent officers, employees, status 18.108
Initiative ordinances designated, effect 18.103

Offices, agencies, departments changes in offices, positions 18.105 functions, powers, duties transfer 18.104 Operative date, effect 18.101 Rules, regulations review, adoption 18.107

#### TREASURER

Elective officer, designated 6.100 Powers, duties 6.106

- U -

UNIFIED SCHOOL DISTRICT Generally 8.100

# UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Composition, election, term, compensation 8.100

# UTILITIES, PUBLIC UTILITIES

Acquisition bonds, use, regulations 9.110 generally 16.101

Revenues, expenditures 16.103

UTILITIES, PUBLIC UTILITIES BONDS Election requirements 9.110

UTILITIES, PUBLIC UTILITIES FUNDS Established, funding, use 16.103

- w -

WAR MEMORIAL AND PERFORMING ARTS CENTER GOVERNING BOARD Composition, appointment, powers, duties 5.106

#### WORKMEN'S COMPENSATION

Eligibility, effect Appx. A, A8.515
Retirement allowance adjustment when fire department retirement system Appx. A, A8.575, A8.585-7, A8.588-7 miscellaneous officers, employees, employment after November 1, 1976 Appx. A, A8.584-4 police department retirement system Appx. A, A8.551, A8.559-7, A8.586-7

— Y —

# YOUTH COMMISSION

Composition, appointment, term, compensation, meetings 4.123 Established 4.122 Powers, duties 4.124, 4.125 Purpose 4.122, 4.124 Supervision 4.122, 4.125

-z-

#### ZONING

Amendments, procedure 4.105 Variances, conditional use decisions 4.105

ZONING ADMINISTRATOR
Appointment, powers, duties 4.105









